



Suitability of Students for Professional Practice

Fitness to Practise Policy and Procedures

Applicable from 2nd January 2024

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| Version Number | 3 V.1 December 2019 V.2 April 2023 The Policy had undergone major changes in December 2019 and was considered a “new” policy. A previous Fitness to Practise Policy had existed. | | |
| Document Status | Revised Existing Policy | | |
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| Review Period | As and when required, in line with external requirements (e.g., the OIA, General Medical Council, General Dental Council, Nursing and Midwifery Council, Health and Care Professions Council, Royal College of Veterinary Surgeons). | | |
| Responsible Department | Faculty of Health and Life Sciences Student Conduct, Complaints and Compliance Team | | |
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| | SLT | 11.9.23 | Yes |
| | Education Committee | 19.10.23 | Yes |
| | Senate | 15.11.23 | Yes |
| | Council | 24.11.23 | Yes |
| Linked Documents | Student Conduct Policy Fitness to Study and Engage in Student Experience Policy Student Complaints Policy and Procedure Code of Practice on Assessment (CoPA), Appendix D, E, L and M Codes of Conduct (or equivalent) of relevant Professional, Statutory and Regulatory Bodies (PSRB)s | | |
| Does this replace any previous policies? | No | | |
| Consultation | Consultation has taken place with the Liverpool Guild of Students, the Schools of Dentistry, Health Sciences, Medicine and Veterinary Science, the Department of Primary Care & Mental Health, the HLS APVC Education, the Executive Dean for the Institute of Life Course and Medical Sciences, and the HLS Faculty Leadership Team (FLT). | | |

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| <p>Equality Impact Assessment</p> <p>(Evidence of due regard to Public Sector Duty and Equality Act)</p> | <p>The proposed changes have no equality impact on any groups – the changes do not have an impact on the implementation of the policy and apply to all students.</p> |
| <p>Regulatory/ Compliance</p> | <p>The proposed changes are made in line with the Office of the Independent Adjudicator for Higher Education’s (OIA) Good Practice Framework (appeal routes and to meet the timeframe in which cases should proceed).</p> |
| <p>Data Protection</p> | <p>There are no data protection issues – all proposed changes do not impact on the way any data is handled during the implementation of the policy and procedures.</p> |
| <p>Communication</p> | <p>Formal communication via the Faculty of Health and Life Sciences and/or Student Conduct, Complaints and Compliance to the affected consulted group.</p> |

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A Introduction

- a) The University was founded with the aim of ‘the advancement of learning and the ennoblement of life’. An environment conducive to learning is one that preserves the freedom to learn, where academic, personal and professional standards are strictly upheld and where the rights, wellbeing, dignity and merits of every individual are respected.
- b) The University of Liverpool offers a number of clinical programmes which, on graduation permit those who have taken such programmes
 - the right to practise as members of a particular profession, with a right to membership of appropriate professional bodies on receiving that degree; or
 - a requirement to register with an appropriate regulatory body if they wish to practise after graduation; or
 - a right to be accepted into a profession upon confirmation from the University that they are fit to practise.
- c) To ensure that the public is protected, and appropriate support is provided for students, in line with ethical frameworks and regulatory guidance, the University has a duty to monitor students’ health and conduct, and have in place Fitness to Practise processes that consider whether these may impact upon patient care.
- d) Students’ professional behaviours will be monitored by the respective School and, where concerns are raised, these may be addressed appropriately at School or Faculty level by their internal processes. Where there are concerns which have not been able to be resolved at those levels (see below), the student should be referred to the University Fitness to Practise processes.

B The Policy

1. Key principles

The key principles underpinning the Policy and Procedures are based on principles of natural justice which are that:

- a) The University will act fairly and reasonably in all circumstances;
- b) The University will follow its own procedures;
- c) Decisions which determine whether a student is or is not fit to practise will be taken with regard to the University’s duty to ensure to the public that it does not permit students to practise if they may not be fit to do so.

2. Authority for action under the Policy and Procedures

- a) The Senate will regulate and superintend students' fitness to practise and exercises this authority through those persons and bodies identified within these procedures and under the Ordinance governing Students' Admission, Studies and Conduct. Any changes to the Policy and Procedures shall be approved by the Senate and the Council.
- b) Authority for taking action under these procedures is exercised by the Senate through the following bodies:
 - University Fitness to Practise Panel
 - University Professional Appeals Board
- c) Authority to take action under these procedures where a student is considered fit to practise but where it is appropriate for warnings, further instruction or remedial work to be required is exercised by the Senate through the following officers, within their own 'sphere of responsibility' under powers of summary jurisdiction:
 - Executive Pro-Vice-Chancellor (or nominee), Faculty of Health and Life Sciences
 - Heads/Deans of appropriate Academic Disciplines within the Faculty of Health and Life Sciences (or nominee)
 - Programme/Year Directors/Professionalism leads appointed for those programmes covered by these procedures

3. Scope of Policy

- a) The Fitness to Practise Policy and Procedures apply to students on programmes in the Faculty of Health and Life Sciences with professional/statutory body regulation that necessitates Fitness to Practise processes or on a Year 0 programme within the University with expectations of entry into a Year 1 programme governed by these processes. Where a student in the Final Year of study or a graduand is referred to Fitness to Practise Procedures, they shall not be permitted to graduate from the University until the Procedures have been completed.
- b) The Policy and Procedures shall also apply to any student who has suspended studies from such programmes in order to undertake an intercalated period of studies on another programme.
- c) Where a student has suspended studies for other reasons, the Policy and Procedures may also be applied during the period of suspension or upon the student's return or notice of intention to return to studies.

- d) Where a student has withdrawn from studies on a programme governed by the Fitness to Practise Procedures prior to an allegation relating to fitness to practise being made or has withdrawn after an allegation has been made but before Fitness to Practise Procedures have been completed, a Fitness to Practise investigation may be carried out with or without the former student's co-operation where a relevant Professional/Statutory Body requires to be notified of persons whose names may need to be recorded on an Excluded Students' Database or similar. The former student must, however, be informed of any such investigation and the outcome, including the transfer of information to the Professional/Statutory Body.
- e) Other University policies and procedures which are connected to the Fitness to Practise Policy and Procedures are set out below:
- Student Conduct Policy
 - Fitness to Study and Engage in Student Experience Policy
 - Student Complaints Policy and Procedure
 - Bullying and Harassment Policy
 - Code of Practice on Assessment Appendix D: Regulations for the Conduct of Examinations
 - Code of Practice on Assessment Appendix E: Guide on the Progress of Students on Taught Programmes of Study
 - Code of Practice on Assessment Appendix L: Academic Integrity Policy
 - Code of Practice on Assessment Appendix M: Policy on Extenuating Circumstances in Relation to Assessments and Examinations
 - Codes of Conduct or equivalent of relevant Professional/Statutory Bodies
- f) The circumstances under which a student may be referred to the Policy and Procedures are as follows:

(i) **Health concerns**

Students whose health gives rise to serious concern that they will not be fit to practise must be referred to Fitness to Practise Procedures. For students who are on a programme included in the scope of this policy, these Procedures will take precedence over the University's Fitness to Study and Engage in Student Experience Policy. Students may also be referred to Fitness to Practise Procedures should they submit an Extenuating Circumstances claim (on the grounds of ill health or any other circumstance) having completed a clinical assessment in which they subsequently claim that their performance was affected by those circumstances.

(ii) **Misconduct, integrity and behavioural concerns, including professional conduct**

Misconduct, as normally defined in the University's Rules for Student Conduct (<https://www.liverpool.ac.uk/student-administration/policies-procedures/conductdiscipline/>), committed by a student on a professional

programme will be dealt with under the University's Student Conduct Policy. However, certain conduct, which breaches explicit guidance of the professional/regulatory body that oversees the profession that the degree would lead into, would normally also engender a referral to Fitness to Practise. Any investigation and/or hearing under the Student Conduct Policy will be completed before any investigation and/or hearing under the Fitness to Practise Procedures but a decision to suspend a student from academic studies and/or clinical work may be taken under the Fitness to Practise Procedures or the Student Conduct Procedures pending the completion of the procedures under the Student Conduct Policy.

Where a student on such a programme is found to have committed a Category D or E offence under the University's Academic Integrity Policy (or equivalent) or where a professional code of practice indicates that a lesser breach of academic integrity may constitute unprofessional behaviour, the student shall normally be referred to the Fitness to Practise Procedures once the offence has been determined by a Board of Examiners.

Where a student is found to have committed an offence under the University's Academic Misconduct Policy, the student shall normally be referred to the Fitness to Practise Procedures once a penalty has been determined by the Board of Discipline.

Students whose behaviour gives rise to serious concern that they will not be fit to practise may be referred to Fitness to Practise Procedures. Any behaviour which places a human patient or an animal patient or its owner at risk or gives rise to concern about the student's future commitment to the protection and safety of human patients or animal patients or their owners, should be considered under Fitness to Practise Procedures.

(iii) Criminal offences

In the event that a student on a relevant programme is convicted of, cautioned for, reprimanded for or charged with any criminal offences, including motoring offences (except parking or speeding offences which are subject to fixed penalties), they may be considered under Fitness to Practise Procedures once all due legal and risk assessment processes have been completed. However, it may be necessary to suspend the student from the University and/or from external placements in accordance with the Student Conduct Policy or as set out below in Sections C1 and C2.

(iv) Academic progress

Students who fail to make satisfactory progress in academic studies or in assessed clinical work will normally be considered under the Code of Practice on Assessment Appendix E (Guide on the Progress of Students on Taught Programmes of Study). However, if during deliberations concerns come to light about the student's suitability to practise professionally on grounds of health or

conduct, then the Fitness to Practise Procedures may also be initiated. This would not normally be initiated unless a decision to permit the student to continue to study had been taken in accordance with the Code of Practice on Assessment Appendix E.

C Initial Consideration of Issues

1. Temporary withdrawal from clinical activity/ placement

Where a student's health or conduct is considered to pose an immediate risk to patient safety or wellbeing, the direct clinical supervisor should contact the relevant Dean of School (or their nominated deputy) to gain approval for the student to be removed immediately from clinical activity. Where the Dean agrees, they should require that the student is temporarily withdrawn from clinical duties to allow further investigation of the concerns to take place. It is envisaged that this would be for no more than two weeks, in the first instance, during the School's normal term times. In such circumstances, an opportunity will be given to the student to make representations as soon as is reasonably practicable to the School, outlining their view of the circumstances leading up to the withdrawal.

In conjunction with issuing the temporary withdrawal, the School should write to the Executive Pro-Vice Chancellor (EPVC) (or nominee) for the Faculty informing them of the concerns that have been raised to request the convening of a Faculty Risk Assessment Panel which would determine whether a temporary suspension from all studies (clinical and academic) is required. The EPVC (or nominee) should also seek advice from the Director of Student Administration and Support to ascertain whether the Risk Assessment Panel should instead be held at University level under the Student Conduct Policy if the Director considers that there are wider implications for the student's position within the University as a whole. If it is determined that a Faculty Risk Assessment Panel should be held, the EPVC (or nominee) shall appoint a Chair of the Panel (who should not be from the same School as the student) and would include the relevant Dean of School (or their nominated deputy) and at least one other person approved by the EPVC (or nominee).

2. Temporary suspension from studies

Where it is decided by the Faculty Risk Assessment Panel that a student should be suspended from all studies, the student should be informed orally by the senior member of the relevant School. They should inform the student of the reasons for the suspension in the presence, where possible, of a witness. 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:

- (i) 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;
- (ii) A student has been convicted of a crime or is being investigated in relation to a crime that brings their fitness to practise into question;
- (iii) A student has been directly implicated in an incident with a patient, colleague or member of staff, that leads to major concerns about the student's professional behaviour;
- (iv) 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 and/or members of staff.

The student is entitled to be accompanied at that meeting by a supporter, which would normally be a member of the Liverpool Guild of Students Advice Service or by someone from the relevant professional association. Students may not be legally represented at this meeting but may choose to seek legal advice at their own expense. The decision should be confirmed in writing within 48 hours. The communication 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.

3. Suspension from studies likely to impact upon student progression

- a) Where the Faculty Risk Assessment Panel considers that a case has been made for a more prolonged withdrawal of the student from clinical activities, or suspension from the programme, then the Faculty should refer to the EPVC (or nominee) requesting a formal investigation of the fitness to practise concerns.
- b) Where the Faculty Risk Assessment Panel considers that the student may continue with academic studies, the Dean of the relevant School should, in conjunction with the clinical placement provider, decide whether the student is fit to recommence clinical duties. If there are continuing concerns, then the Dean should request the EPVC (or nominee) to approve a formal investigation of the student's fitness to practise.

4. Referral to Investigation

- a) Where a student is referred to a Fitness to Practise investigation, an Investigating Officer shall be appointed by the EPVC (or nominee). The responsibility for the identification, appointment and training of a pool of Fitness to Practise Investigating Officers rests with the Faculty of Health and Life Sciences.
- b) The timescale and guidelines for the conduct of a Fitness to Practise investigation are covered in Appendix 1 to the Policy and Procedures.

- c) The EPVC (or nominee) shall inform the student of the reasons for the referral referred to a Fitness to Practise investigation and give them details of the name of the Investigating Officer and the timescale within which it is expected that the investigation will take place.
- d) On completion of the investigation, the Investigating Officer shall provide a written report to the EPVC (or nominee), which shall also be copied to the student and to the relevant Dean of School, detailing their findings and recommendations, which may include referral for consideration by a Fitness to Practise Panel.

D Fitness to Practise Panel

1. Purpose

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

- a) Any conduct which may render that student a person not fit to be admitted to and practise that profession; or
- b) Any health condition which may render that student a person not fit to be admitted to and practise that profession.

2. Constitution

- a) Each Fitness to Practise Panel shall be constituted as follows:
 - 1. A Chair (a clinical academic member of the Faculty of Health and Life Sciences from a pool appointed by the Senate);
 - 2. A clinical student representative (from the Faculty of Health and Life Sciences) from a School other than the one in which the student is registered.
 - 3. Someone qualified to practice in the same profession as the student being considered or who is a member of the Professional Body to which the student aspires, who is external to the University of Liverpool
 - 4. A non-clinical member of staff of the University, who shall normally be appointed from the current membership of the University Disciplinary Panel.

In cases where the prime reason for the referral of the student to the Panel relates to concerns about health issues, a member who has specialist expertise in matters relating to health may also be appointed to advise the Panel.

- b) A member of the relevant School academic staff, with knowledge of the student's academic programme should attend the hearing (for the purpose of providing factual information to the Panel with regard to the student's academic standing, programme requirements and regulations or Professional Accreditation requirements). This person shall not be party to any private discussions or deliberations of the Panel.
- c) Except where they have previously served on a University of Liverpool Fitness to Practise Panel, University of Liverpool members of the Panel **shall be required** to have received training on Fitness to Practise procedures prior to the Panel hearing. In appointing members of the Panel who are external to the University, due consideration will be given to their prior knowledge of Fitness to Practise procedures generically and they will be offered specific briefing about the University of Liverpool Fitness to Practise procedures if they have not previously served on a University of Liverpool Fitness to Practise Panel.
- d) No person who has previously been involved in the case, who has pastoral responsibilities for the student or who has had (substantial) personal contact during teaching of the student, shall be appointed as a member of the Panel.
- e) With the permission of the University Secretary, a legal representative for the student
- f) In the event that the student is legally represented at a hearing, a person who is legally qualified and nominated by the University Secretary and General Counsel may also attend to provide advice to the members of the Panel on any points relating to legal matters.
- g) The Adviser to the Panel will be a member of the Professional Services staff, normally from the Student Conduct, Complaints and Compliance Team. A further member of Professional Services staff will also be present as a Note-Taker.

3. Determinations and powers of the Fitness to Practise Panel

The Panel may, following consideration of the case:

- a) dismiss the case;
- b) issue the student with a formal warning
- c) permit the student to continue with the programme with appropriate advice and guidance;
- d) permit the student to continue with the programme under close supervision;
- e) suspend the studies of the student for a specified time;
- f) require the student to resit a specified part or parts of the programme;
- g) require any other action considered appropriate by the Panel to enable the student's successful completion of the remainder of the programme;

- h) 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.
- i) A student may be permitted to exit with an appropriate non-registerable degree;
- j) decide that the student's studies on a programme be terminated and that their registration as a student of the University should cease.

4. Fitness to Practise Panel Procedures

The procedures for the conduct of a Fitness to Practise Panel, including the rights of the student, are set out in Appendix 2 to the Policy and Procedures.

E Professional Appeals Board

1. Purpose of the Board and determination of cases to be heard

The Professional Appeals Board shall hear appeals from students against decisions taken by a Fitness to Practise Panel where it is determined that a student has cited valid grounds for such an appeal. The grounds which may be deemed valid are set out in Appendix 2 to the Policy and Procedures.

2. Constitution of a Professional Appeals Board

- a) The Professional Appeals Board shall consist of:
 - 1. The President of the Council or the Pro-Chancellor of the University (in the chair)
 - 2. A member of the Senate nominated by the Vice-Chancellor
 - 3. Someone qualified to practice in the same profession as the student being considered or who is a member of the Professional Body to which the student aspires, who is external to the University of Liverpool
- b) No member of the Professional Appeals Board shall have had any prior involvement in the case or have taught the student concerned, had pastoral responsibilities for the student or supervised the student on any placement.
- c) The Chair of the Fitness to Practise Panel which heard the student's case shall be invited to attend the hearing (for the sole purpose of clarifying the decisions made by the Panel and the process by which those decisions were reached). This person shall not be party to any private discussions or deliberations of the Board.
- d) A member of the relevant School academic staff, with knowledge of the student's academic programme should attend the hearing (for the sole purpose of providing factual information to the Board with regard to the student's academic standing, programme requirements and regulations or

Professional Accreditation requirements). This person shall not be party to any private discussions or deliberations of the Panel

- e) The Adviser will be a member of the Professional Services staff, normally from the student Conduct, Complaints and Compliance Team. A further member of Professional Services staff will also be present as a Note-Taker
- f) When permitted, (see Appendix 3, 4(f)) a legal representative for the student
- g) In the event that the student is legally represented at a hearing, a person who is legally qualified and nominated by the University Secretary and General Counsel may also attend to provide advice to the members of the Panel on any points relating to legal matters

3. Determinations and powers of the Professional Appeals Board

The Board may, following consideration of the case:

- a) Uphold the decision reached by the Fitness to Practise Panel;
- b) Request that the Fitness to Practise Panel reconvenes with the student to reconsider its decision on the basis of new evidence where the Professional Appeals Board has accepted there is good reason why that evidence could not previously have been made available to the Fitness to Practise Panel and where the Board judges that the evidence could have had a material effect on the decision reached by the Panel.
- c) Require that a new Fitness to Practise Panel hearing be held. In such instances, normally no members of the previous Panel should be involved in the new hearing although the original Investigating Officer, Adviser and note-taker may be involved.

4. Professional Appeals Board Procedures

The procedures for the conduct of a Professional Appeals Board, including the rights of the student, are set out in Appendix 3 to the Policy and Procedures.

Appendix 1: Fitness to Practise Investigations

1. Appointment and Responsibilities of the Investigating Officer

- a) When an allegation that a student may not be fit to practise is received by the Executive Pro-Vice-Chancellor (EPVC) (or nominee), for the Faculty of Health and Life Sciences, and the EPVC (or nominee) concurs with the recommendation that an investigation should ensue, they shall appoint an Investigating Officer, who will normally be a senior clinical member of staff in the Faculty from a different School to that in which the student is registered. It is the responsibility of the Faculty to ensure that Investigating Officers are given training and support appropriate to the cases they are being asked to investigate.
- b) It is the responsibility of the Investigating Officer to obtain statements of facts relating to the allegation which has been made against a student and to consider any further allegations which may come to light during the investigation. In the light of the evidence gained, the Investigating Officer will recommend to the EPVC (or nominee) whether there is a sufficient case to warrant the allegation being submitted to a Fitness to Practise Panel or to some other procedure under the University's Fitness to Practise Policy and Procedures.
- c) In conducting their investigation and reaching their determination, the Investigating Officer shall maintain an impartial view of the case, based solely on the evidence gathered. The Investigating Officer will not make any judgement on the likely outcome of any action to be taken following their recommendation.

2. The Investigation Process

- a) On appointment, the Investigating Officer will receive from the EPVC (or nominee) details of the allegation against the student together with any evidence provided with the allegation. The Investigating Officer will also be provided with all relevant details of the student's record. The Investigating Officer will also be informed of the deadline for the submission of their investigation report to the EPVC (or nominee).
- b) The Investigating Officer will write to the student normally within five working days of their appointment to inform them that, whilst they are under no obligation to comment at this stage or at any other stage of the investigation, they may do so by providing a written statement to the Investigating Officer. The student shall also be provided with a copy of the full University's Fitness to Practise Policy and Procedures. All communications with the student shall normally be conducted primarily by email to their University email address except where, for good reason only, the student has indicated that a personal email address should be used.

- c) The investigation should not normally take longer than 30 working days. Where it is likely to take longer, the Investigating Officer must inform the EPVC (or nominee), who shall be responsible for determining whether there is good reason to lengthen the period of the investigation. If so, the EPVC (or nominee) is then responsible for informing the student of the new expected date for completion of the investigation and the reason for the extended period.
- d) Where the Investigating Officer, having considered evidence and facts relating to the case, has reason to believe that there may be undesirable consequences for the wider community, including any risk to patients, if the student were to be permitted to continue with normal University activities during the investigation, they should inform the EPVC (or nominee) immediately so that a Faculty Risk Assessment Panel can be convened.
- e) Where a student, who is the subject of a Fitness to Practise investigation, makes counter allegations or complaints to the Investigating Officer, the Investigating Officer will confirm with the student whether they wish for these counter claims to be considered as part of the investigation. Where the student confirms this, the Investigating Officer will inform the student that their counter claims can only be considered if the student submits them in writing and with appropriate evidence and within a reasonable timescale. Where necessary the Investigating Officer may need to request approval by the EPVC (or nominee) for an extension to the period of the investigation beyond the expected 30 working days in order to accommodate appropriate consideration and investigation of the counter claims. If the student does not wish these counter claims to be considered, then the Investigating Officer will inform the student that this information cannot be used by the student in any defence of their case. Similarly, if the student either does not submit the counter claims in writing or in good time, the Investigating Officer will disregard the counter claims. Any counter claims, which are found to be vexatious, malicious or false, may be regarded as evidence for disciplinary action against the student and, if so, will normally require the Fitness to Practise procedures to be halted whilst disciplinary procedures are taken.

It is the responsibility of the Investigating Officer to review any legitimate counter claim or complaint made by the student and whether or not they are able to investigate the counter claims or complaint within the Fitness to Practise investigation, consulting with the Director of Student Experience and Enhancement (or nominee) as required. In the event that the counter claim or complaint is of a serious nature it should be considered as a Stage 2 Complaint under the Student Complaints Policy and Procedure, whereby the Director of Student Experience and Enhancement (or nominee) would appoint a separate independent investigator and the complaint will be determined by the Director of Student Experience and Enhancement (or nominee). Under these circumstances, the Fitness to Practise investigation will normally be

suspended, pending the outcome of the investigation into the Formal Complaint. Should the counter claim or complaint a student is making be external to the University (e.g., against a Placement Provider) the student's complaint will need to be made externally, but the Fitness to Practise investigation will normally be suspended, pending the outcome of the investigation into the claim or complaint, should evidence that a complaint has been made be demonstrated to the Investigating Officer.

If, during the course of the investigation, the Investigating Officer has reason to believe that any documentation or other evidence or information provided by the student is falsified, fabricated or inappropriately amended or altered, the Investigating Officer shall consult with the Director of Student Experience and Enhancement (or nominee) to ascertain whether or not the Fitness to Practise procedures should be halted and the alleged dishonesty referred to a separate disciplinary investigation. In the event that a Fitness to Practise investigation is suspended because an allegation referred by the Investigating Officer leads to a disciplinary investigation, on resumption of Fitness to Practise procedures the EPVC (or nominee) shall normally appoint a new Investigating Officer.

- f) The Investigating Officer shall obtain such further statements of the facts of the allegation from the person who made it and any witnesses or other persons who they consider may provide pertinent information. The Investigating Officer shall also seek to obtain any pertinent documentation or written evidence including information relating to the appropriate professional body's code of conduct or other guidance concerning students.
- g) It is expected that the student will cooperate with all stages of the investigation. Where a student fails to cooperate or does not respond to communications within a reasonable timescale, the Investigating Officer shall proceed on the basis of the evidence which they have obtained and, in considering whether or not there is a case for the student to be referred to a Fitness to Practise Panel, shall take consider whether or not the student's lack of cooperation constitutes in itself grounds for such a referral. Where there is reason to consider that a student's health may be preventing their cooperation, a referral to Occupational Health to determine the level to which they are able to participate may be considered and decisions taken about reasonable adjustments to the procedures, to timescales or to postponement of procedures may be taken. Students are required to provide relevant medical evidence to Occupational Health upon request. Where a student does not cooperate with a referral to Occupational Health or does not engage following appropriate adjustments to procedures or where it is determined that a postponement is not appropriate, the Investigating Officer may consider whether or not the student's lack of cooperation constitutes in itself grounds for a referral to the Fitness to Practise Panel.
- h) Unless held at the request of the student, any face-to-face meeting with a student shall be held with no fewer than two working days' (and, for

preference where feasible five working days') notice of the date and time of the meeting being provided to the student. The student shall be provided in advance of the meeting with copies of any evidence gathered.

- i) A student is entitled to be accompanied by one other person at any face-to-face meeting with the Investigating Officer and it is recommended that this would normally be a member of the Guild Advice Service or a professional representative e.g. from a medical, dental or veterinary defence organisation or a trade union. As any such meeting shall be held only to establish matters of fact, the student is not entitled to be legally represented at the meeting. Students are not permitted to record the meeting: notes of the meeting will be taken and students will be given the opportunity to approve or amend the notes.
- j) The Investigating Officer may hold such face-to-face meetings with witnesses (who may include the person who made the allegation) as they shall deem appropriate. This may include witnesses put forward by the student or by the person who made the allegation, in which case the student or person who made the allegation shall not be entitled to be present at the meeting with the witness.
- k) In the event that a witness is not able to meet with the Investigating Officer in person (e.g. because an investigation is being conducted during a vacation period), the Investigating Officer shall normally conduct discussions with the witness or complainant by other forms of communication. A decision to postpone any face-to face meeting with the witness until such time as the witness may reasonably be expected to be present at such a meeting should only be taken if such postponement does not unreasonably delay the conclusion of the investigation to the disadvantage of the student.
- l) Any face-to-face meeting with a witness shall normally be held with no fewer than two working days' (and, for preference where feasible five working days') notice of the date and time of the meeting being provided to the witness. A person nominated as a witness has the right to decline to cooperate with an investigation. However, the person nominating the witness shall then be informed of this fact by the Investigating Officer. Witnesses will not normally be permitted to remain anonymous except if the nature of the allegation means that a whistleblowing policy which permits anonymity applies.
- m) A witness is entitled to be accompanied by one other person at any face-to-face meeting with the Investigating Officer. As any such meeting shall be held only to establish matters of fact, the witness' supported may be a professional representative e.g., from a medical, dental or veterinary defence organisation or a trade union or, if they are a student, a member of the Guild Advice Service.

- n) The Investigating Officer shall be accompanied at any face-to-face meeting with the student or a witness by another member of Professional Services staff who shall act solely in the capacity of note-taker at the meeting. An additional member of Professional Services staff may also be present to advise on the Fitness to Practise Policy and Procedures or any other appropriate procedure.
- o) Following any face-to-face meeting, the Investigating Officer shall provide the interviewee with a set of the notes taken by the note-taker and will ask the interviewee to verify whether or not they consider the notes to be an accurate record of the meeting. If the interviewee requests amendments to the notes, the Investigating Officer shall either:
 - (i) agree to the amendments, in which case a revised version shall be provided to the interviewee for verification; or
 - (ii) disagree to the amendments, in which case in any referral of the case, copies of both the original set of notes and the interviewee's requested amendments shall be provided in the evidence base.
- p) The Investigating Officer may hold more than one meeting with the student or with any witness, provided that they are willing to attend such meetings.
- q) The Investigating Officer shall normally only accept written statements from the person who made the allegation, witnesses or the student. If, for example, another party offers to submit a statement in support of the student, then the Investigating Officer should ask them to submit it through the student.
- r) On conclusion of the investigation, the Investigating Officer will consider whether there is sufficient evidence to recommend the case being referred to a Fitness to Practise Panel. Consultation must also involve advice on the formulation of the charge. On making the decision, the Investigating Officer shall prepare a written report on their findings, attaching copies of the evidence as appropriate. Any recommendations within the report must be cross-referenced to the appropriate Code of Professional Conduct or other guidelines on Fitness to Practise matters issued by a relevant professional body and/or to University of Liverpool Ordinances, Regulations, Codes of Practice, Guidelines or similar documents.

3. Procedure where there is no case to be taken forward

- a) The Investigating Officer may recommend that there is no case to be taken forward. If the EPVC (or nominee) agree, they shall inform the person who made the allegation that no further action be taken on it. In writing to the person who made the allegation, the EPVC (or nominee) shall provide a brief

outline of the reasons for their decision but shall not normally provide a copy of the evidence base.

- b) The EPVC (or nominee) shall also inform the student in writing that no further action will be taken and that no record of the investigation shall be retained on the student's record. Correspondence and evidence relating to the investigation shall be kept in accordance with the University's Data Protection Policy and retained for one calendar year from the date of the referral, in case of any complaint by the student about the investigation but, unless the student makes a complaint within the timescales set out within the University's Student Complaints Policy and Procedure, the file shall then be destroyed.
- c) In the event that the student considers that the nature or timing of the complaint of misconduct and/or the subsequent investigation was such that their academic performance may have been affected, they may request the EPVC (or nominee) to provide them with a brief written statement, to confirm that they were subject to an investigation which was not pursued, which they may then submit as independent documentary evidence in support of a claim under the University's Extenuating Circumstances Policy.

4. Procedure where there is a case for matters to be dealt with by means other than by referral to a Fitness to Practise Panel

- a) The Investigating Officer may recommend that there is a case for matters to be dealt with by other means to be determined by EPVC (or nominee). If the EPVC (or nominee) agrees, they shall consider what action should be taken and by whom. This may include, but is not restricted to one or more of the following:
 - receipt of a formal warning
 - requiring the student to agree to specific undertakings (e.g., a drug awareness course)
 - requiring the student to agree to conditions (e.g., no unauthorised absences)
 - referral of the student for an Occupational Health Assessment and requiring the student to provide relevant medical evidence and agree to any treatment, undertakings or conditions arising from that assessment
 - referral of the student to the Disability Advice and Guidance team for consideration for reasonable adjustments to be made to their programme of study
 - additional pastoral or well-being or academic or clinical support to be put in place for the student
- b) The EPVC (or nominee) shall inform both the student and the person who made the allegation of the action which is to be taken.

- c) In the event that the student does not agree to or subsequently does not adhere to agreed action, their School would normally refer the student back to the Fitness to Practise Procedures.

5. Procedure where there is a case for matters to be referred to a Fitness to Practise Panel

The Investigating Officer may recommend that there is a case for matters to be referred to a Fitness to Practise Panel. If the EPVC (or nominee) agrees, the EPVC (or nominee) shall inform both the student and the person who made the allegation of the action and proceed to appoint a Fitness to Practise Panel in accordance with Appendix 2 of the Fitness to Practise Policy and Procedures.

6. Amendments to these Procedures

These procedures may be amended as appropriate to make reasonable adjustments where there is an obligation on the University to do so to meet its obligations under the Equality Act. Where possible such adjustments should be anticipatory but a student who considers that adjustments are necessary should raise this with the Investigating Officer if they do not consider that anticipatory adjustments have been made.

Appendix 2: Fitness to Practise Panel

1. Introduction

- a) These Procedures form part of the University's Fitness to Practise Procedures. These procedures may be amended as appropriate to make reasonable adjustments where there is an obligation on the University to do so to meet its obligations under the Equality Act. Where possible such adjustments should be anticipatory but a student who considers that adjustments are necessary should raise this with the Investigating Officer if they do not consider that anticipatory adjustments have been made.
- b) These Procedures shall adhere to the principles of natural justice, namely:

(i) That no one shall be judge in his own cause

Members of the Fitness to Practise Panel shall make decisions impartially, without prejudice or any kind of personal interest in the outcome. No one who has been a party to the allegation made against the student or the investigation into that allegation shall be a member of the Panel.

(ii) That each party shall have the right to be heard

The student shall be given sufficient notice of the date of any hearing and the opportunity to attend or be represented at the hearing in accordance with the procedures set out under Section 3 below. The student shall have the right to make representations to the Panel in their defence or in mitigation, in writing, and in advance of the hearing and/or verbally in person at the hearing, or verbally through a representative at the hearing if they do not attend.

- c) The constitution and terms of reference of the Fitness to Practise Panel are set out in the Fitness to Practise Procedures, Section D.

2. Powers of the Fitness to Practise Panel

- a) As set out in the Fitness to Practise Policy and Procedures, Section D3, the Fitness to Practise Panel has the authority to:
- (i) dismiss the case;
 - (ii) issue the student with a formal warning
 - (iii) permit the student to continue with the programme with appropriate advice and guidance;
 - (iv) permit the student to continue with the programme under close supervision;
 - (v) suspend the studies of the student for a specified time;
 - (vi) require the student to resit a specified part or parts of the programme;

- (vii) require any other action considered appropriate by the Committee to enable the student's successful completion of the remainder of the programme;
 - (viii) 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 may be permitted to exit with an appropriate non-registerable degree;
 - (ix) decide that the student's studies on a programme be terminated and that their registration as a student of the University should cease.
- b) Where it proves impossible for the student to continue their studies on a particular programme because the student is deemed by the Panel 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.
- c) Where a registered student is allowed to continue with the programme, or when the studies have been temporarily suspended, they will be required to meet with the Panel, or an appropriately constituted sub group, on further occasions, at times outlined by the Panel in order that progress can be monitored.

3. Procedures prior to a Fitness to Practise Panel hearing

- a) Following referral to a Fitness to Practise Panel by the Executive Pro-Vice Chancellor (or nominee), the Adviser to the Fitness to Practise Panel will be responsible for arranging the hearing. This will include:
- (i) ensuring that the EPVC (or nominee) for the Faculty of Health and Life Sciences establishes an appropriately constituted Fitness to Practise Panel
 - (ii) convening the meeting taking account of any prescribed notice periods;
 - (iii) notifying the student of the procedure to be followed, of the membership of the Panel and the identify of any other person who will be attending the hearing, including any witnesses being called by the Investigating Officer;
 - (iv) providing the student with an opportunity to make their own written submissions to the Panel in advance of the hearing;
 - (v) making a written account of the proceedings (responsibility for this may be delegated to a note-taker);
 - (vi) providing the student with a written outcome after the hearing which will include wider implications, where appropriate, for their continued registration;

- b) The student will be given a minimum of ten working days' notice of the date of the hearing. An electronic copy of the invitation letter will be sent to the student's University email address. Postponement of a hearing shall be at the discretion of the Adviser and Chair of the Fitness to Practise Panel on consideration of the student's request. Under normal circumstances any re-scheduling of a hearing would take place within three months at the latest and students will not be permitted more than one request to postpone. Students may not normally request a postponement because of the non-availability of any person who they wish to accompany them to the hearing or of a witness. In any request for a postponement, the student should also indicate their earliest availability.
- c) The Investigating Officer will submit a written report to the meeting. Where appropriate, this could comprise reports prepared by a number of members of University staff and a report from an independent health care practitioner. It may also include relevant minutes from the Board of Discipline, University Disciplinary Panel, Boards of Examiners or Faculty Progress Committees or similar bodies. Copies of any relevant Code of Professional Conduct, appropriate guidelines issued by appropriate relevant professional body or similar document and factual information about the student's progress on the programme should also be provided. The Investigating Officer shall attend the Panel hearing to present the evidence. The Investigating Officer may also choose to call witnesses.
- d) All documents submitted to the Adviser shall be sent to all parties except witnesses at least five working days before the hearing. Late submission of papers by either the Investigating Officer or the student will not be included and it is not permitted for papers to be tabled at the meeting.
- e) Where necessary to protect the identity of individuals not involved in the case or where allegations have been made under approved 'whistleblowing' arrangements, the Adviser may redact references to those individuals.
- f) Provided that due notice is given, the student is entitled to be accompanied by one other person acting as their friend. The University discourages students being accompanied by a family member as the most effective support for a student attending a Fitness to Practise hearing is provided by someone who understands the University's procedures such as the student's academic adviser or a member of the Guild Advice Service or a representative of their professional organisation. However, the student is at liberty to choose whoever they wish to accompany them as a friend and is strongly advised to exercise this right.
- g) With the approval of the University Secretary, students are permitted to bring legal representation to the Fitness to Practise Panel hearing. Students should make any request to bring legal representation as soon as possible to give the University Secretary a reasonable time to review the request. The Fitness

to Practise Panel would not normally accept a late decision by a student to seek legal advice to constitute grounds for postponement of a hearing date.

- h) Any costs related to legal representation at a Fitness to Practise Panel hearing shall be borne by the student.
- i) Students are also entitled to seek legal advice at their own expense and their statements can be compiled on their behalf by persons legally qualified.
- j) As the Panel will wish to hear predominantly from the student, a person accompanying a student to a hearing as their friend or legal representative may be invited at an appropriate point in the procedures to make a statement in support of the student but will not normally be permitted to act as the student's representative and speak directly on their behalf except where this may have been agreed in advance of the hearing as a 'reasonable adjustment' in relation to health or disability concerns.
- k) In writing to the student, the Adviser shall give the student an explicit deadline by which they must give notice of any person who will be accompanying them and that person's contact details for receipt of papers. This deadline shall not be less than five working days before the date of the hearing.
- l) Witnesses should be warned that they will be required to wait in an anteroom until they are called. It is not possible to run a hearing to any kind of timetable. After they have given evidence, witnesses will be required to retire to the anteroom if any need to recall them is anticipated by either party. Otherwise the Chair of the Panel may ask them to leave as soon as they have finished giving their evidence. Witnesses are not permitted to remain to observe the hearing after they have given their evidence, or to take any further part in the hearing unless they are recalled.
- m) The student will be required to attend the meeting in person. If the student fails to attend without reasonable explanation, the Panel will normally consider the case in the student's absence, provided that the Panel is satisfied that there is evidence that the Adviser has made every reasonable attempt to communicate the date and time of the hearing to the student in accordance with the requirements under Section 3b) above. The Chair will have discretion as to what constitutes a "reasonable explanation".

4. Procedures during a Fitness to Practise hearing

- a) The following Procedures are those that will normally be followed. The Chair, after consultation with the Panel and the Adviser, may modify these Procedures in exceptional or unusual cases or to accommodate health or disability issues as 'reasonable adjustments', as long as the principles of natural justice, as set out in Section 1b) above, are maintained.

b) **Procedure for a hearing**

1. The student, the friend or legal representative (if attending) and other staff attending will join the Panel at the same time.
2. The Chair will introduce by name and explain the responsibilities of the members of the Panel, the other staff attending, and any others present.
3. The Chair will explain the powers of the Panel.
4. The Chair will make a statement regarding the reason for referral to Fitness to Practise.
5. The Chair will invite the Investigating Officer to present the evidence and then invite the Panel and then the student to ask questions. The Investigating Officer may then call witnesses to give evidence, who may be questioned in turn by the Panel and the student.
6. The Chair will invite the student to make a statement. The Chair will explain that the Committee will wish to hear directly from the student in their own words although the student's friend or legal representative may also be permitted to make a statement. The student may also call witnesses to give evidence, who may be questioned in turn by the student and the Panel
7. The Members of the Panel will be invited to question the student.
8. The Members of the Panel may ask questions of the relevant School academic staff in attendance but such questions shall normally be limited to requests for factual information with regard to the student's academic standing, programme requirements and regulations or Professional Accreditation requirements. The student may ask questions of the relevant School academic staff in attendance through the Chair.
9. Once the Chair is satisfied that the Panel has completed its questioning and the student has had a full opportunity to convey information to the Panel, the student, the friend or legal representative and any staff who are not members of the Panel (except the Adviser and Note Taker), will withdraw. The Panel will then discuss the case in private.
10. If for any reason the Panel 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.
11. The Panel may adjourn but will make its decision as soon as reasonably practicable.

12. The standard of proof used by the Panel 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 Panel shall be taken by simple majority. Where the votes are equal, the Chair shall make the final determination.
13. The decision, and any findings of fact, will be conveyed to the student and other interested parties as soon as practicable, and will in any event be conveyed to the student by email to the student's University email address, within 10 working days of the Panel 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 Advice and Guidance Team or other support services, the relevant health regulator, or the relevant body concerned with the supervision of newly graduated professionals, e.g. the Dean of Postgraduate Medical Studies. The written determination shall also include details of the student's right of appeal.
14. The Adviser 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.

5. Procedures during a reconvened Fitness to Practise re-hearing

In the case of a re-hearing, the procedures for a first hearing shall normally be followed but the Chair, after consultation with the Panel and the Adviser, may modify the Procedures in exceptional or unusual cases, as long as the principles of natural justice, as set out in Section 1b) above, are maintained.

The Investigating Officer and member of the relevant School academic staff, with knowledge of the student's academic programme will normally be required to attend a reconvened hearing. It is not usual for witnesses to be called at a re-hearing, but if required, they may be called and these Procedures modified accordingly. In the event that the original members of the Panel are no longer available to attend the rehearing then the EPVC (or nominee) may appoint replacement members. Any replacement members will be provided with all of the papers and any written determination from the original hearing.

6. Right of Appeal

- a) Students shall have a right of appeal against a decision of a Fitness to Practise Panel, in accordance with the following provision.
- b) Any appeal must be submitted in writing to the Director of Student Experience and Enhancement, with a copy to the Adviser to the Professional Appeals Board, within ten working days of receipt by the student of the letter informing them of their right of appeal. For the purposes of this deadline, the date of receipt shall normally be taken to be the date on which the letter was sent to

the student's University email address except where the student has been denied access to this address, in which case the date of receipt shall normally be considered to be no more than four working days after the date on the letter.

- c) Where a student exercises their right of appeal, any decision by the Fitness to Practise Panel will remain in force until the outcome of the appeal.
- d) The written appeal, which may be submitted as hard copy or electronically, must include the following:
 - The student's name and ID number
 - The date of the hearing of the Fitness to Practise Panel
 - The date on which the student received the letter informing them of their right to appeal
 - A clear statement of the grounds on which the student is making the appeal (see Section 7 below) and all supporting evidence must be submitted with the appeal. Late submission of supporting evidence will not normally be accepted.

7. Grounds for appeal

- a) The grounds on which such an appeal may be submitted are as follows:
 - (i) That new information exists which, for good reason, was not available at the time of the meeting of the Fitness to Practise Panel and which could have had a material bearing on the finding itself. In this case, the student, in their statement of appeal, must provide this information, including any information to be supplied by potential witnesses, and the reason why it could not have been presented to the Fitness to Practise Panel. *Good reason does not include the withholding of information for any sensitive, personal, family or cultural reasons;*
 - (ii) That there were procedural irregularities in the circumstances leading up to and/or in the conduct of the Fitness to Practise hearing which the student could not have brought to the attention of the Panel before or during the hearing. In this case, the student, in their statement of appeal, must set out details of the alleged procedural irregularity;
 - (iii) That the student has received an inadequate or biased hearing. In this case, the student, in their statement of appeal, must set out details of the inadequacy or bias which they consider has occurred.
 - (iv) That there is compelling evidence that the outcome was disproportionate to the finding

- b) In the first instance, the Director of Student Experience and Enhancement, or nominee, (who will not be the same person who acted as Adviser to the Fitness to Practise Panel) will review the student's appeal statement and any supporting information, and, where appropriate, in consultation with other University agencies, determine whether or not the student has presented valid evidence of grounds for their appeal to be considered. This initial consideration will normally be within five working days.
- c) Where it is determined that the student has not presented evidence of grounds for appeal, the Director of Student Experience and Enhancement (or nominee) will inform the student in writing. There is no further right of appeal and, under these circumstances, the student will have completed the internal procedures of the University and will receive a Completion of Procedures letter from the Adviser to the Professional Appeals Board. The letter will also contain details of how the student can take their issue to the Office of the Independent Adjudicator for Higher Education (OIA).
- d) Where it is determined that the student has provided evidence of grounds for appeal, the Adviser to the Professional Appeals Board of Appeal will convene a Professional Appeals Board to consider the appeal. This will normally be convened within twenty working days following receipt of the initial appeal consideration. Under these circumstances the Professional Appeals Board will normally consider all information considered at the original Fitness to Practise hearing, the minutes of the hearing of the Fitness to Practise hearing, as well as the student's appeal statement and supporting information.

Procedures for convening a Professional Appeals Board hearing are set out in Appendix 3 of the Fitness to Practise Policy and Procedures.

Appendix 3: Professional Appeals Board

1. Introduction

- a) These Procedures form part of the University's Fitness to Practise Procedures. These procedures may be amended as appropriate to make reasonable adjustments where there is an obligation on the University to do so to meet its obligations under the Equality Act. Where possible such adjustments should be anticipatory but a student who considers that adjustments are necessary should raise this with the Investigating Officer if they do not consider that anticipatory adjustments have been made.
- b) These Procedures shall adhere to the principles of natural justice, namely:

(i) *That no one shall be judge in his own cause*

Members of the Professional Appeals Board shall make decisions impartially, without prejudice or any kind of personal interest in the outcome. No one who has been a party to the allegation made against the student or the investigation into that allegation shall be a member of the Board.

(ii) *That each party shall have the right to be heard*

The student shall be given sufficient notice of the date of any hearing and the opportunity to attend or be represented at the hearing in accordance with the procedures set out under Section 3 below. The student shall have the right to make representations to the Board in their defence or in mitigation, in writing, and in advance of the hearing and/or verbally in person at the hearing, or verbally through a representative at the hearing.

- c) The constitution and terms of reference of the Professional Appeals Board are set out in the Fitness to Practise Procedures, Section E.

2. Powers of the Professional Appeals Board

As set out in the Fitness to Practise Policy and Procedures, Section E 2, the Professional Appeals Board has the authority to:

- a) Uphold the decision reached by the Fitness to Practise Panel;
- b) Request that the Fitness to Practise Panel reconvenes with the student to reconsider its decision on the basis of new evidence where the Professional Appeals Board has accepted there is good reason why that evidence could not previously have been made available to the Fitness to Practise Panel and where the Board judges that the evidence could have had a material effect on the decision reached by the Panel.

- c) Require that a new Fitness to Practise Panel hearing be held. In such instances, normally no members of the previous Panel should be involved in the new hearing although the original Investigating Officer, Adviser and note-taker may be involved.

3. Case for an appeal to be heard

- a) Any appeal must be submitted in writing to the Director of Student Experience and Enhancement, with a copy to the Adviser to the Professional Appeals Board, within ten working days of receipt by the student of the letter informing them of their right of appeal. For the purposes of this deadline, the date of receipt shall normally be taken to be the date on which the letter was sent to the student's University email address except where the student has been denied access to this address, in which case the date of receipt shall normally be considered to be no more than four working days after the date on the letter.
- b) Where a student exercises their right of appeal, any decision by the Fitness to Practise Panel will remain in force until the outcome of the appeal.
- c) The written appeal, which may be submitted as hard copy or electronically, must include the following:
- The student's name and ID number
 - The date of the hearing of the Fitness to Practise Panel
 - The date on which the student received the letter informing them of their right to appeal
 - A clear statement of the grounds on which the student is making the appeal (see below) and all supporting evidence must be submitted with the appeal. Late submission of supporting evidence will not normally be accepted.
- d) The grounds on which such an appeal may be submitted are as follows:
- (i) That new information exists which, for good reason, was not available at the time of the meeting of the Fitness to Practise Panel and which could have had a material bearing on the finding itself. In this case, the student, in their statement of appeal, must provide this information, including any information to be supplied by potential witnesses, and the reason why it could not have been presented to the Fitness to Practise Panel. *Good reason does not include the withholding of information for any sensitive, personal, family or cultural reasons;*
 - (ii) That there were procedural irregularities in the circumstances leading up to and/or in the conduct of the Fitness to Practise hearing which the student could not, for good reason, have raised at the time. In this

case, the student, in their statement of appeal, must set out details of the alleged procedural irregularity;

(iii) That the student has received an inadequate or biased hearing. In this case, the student, in their statement of appeal, must set out details of the inadequacy or bias which they consider has occurred.

(iv) That there is compelling evidence that the outcome was disproportionate to the finding

- e) In the first instance, the Director of Student Experience and Enhancement, or nominee, (who will not be the same person who acted as Adviser to the Fitness to Practise Panel) will review the student's appeal statement and any supporting information, and, where appropriate, in consultation with other University agencies, determine whether or not the student has presented valid evidence of grounds for their appeal to be considered. This initial consideration will normally be within five working days.
- f) Where it is determined that the student has not presented evidence of grounds for appeal, the Director of Student Experience and Enhancement (or nominee) will inform the student in writing. There is no further right of appeal and, under these circumstances, the student will have completed the internal procedures of the University and will receive a Completion of Procedures letter from the Adviser to the Professional Appeals Board.
- g) Where it is determined that the student has provided evidence of grounds for appeal, the Adviser to the Professional Appeals Board of Appeal will convene a Professional Appeals Board to consider the appeal. This will normally be convened within twenty working days following receipt of the initial appeal consideration.

4. Procedures prior to a Professional Appeals Board hearing

- a) Following a decision that there is evidence of grounds for appeal against a decision of a Fitness to Practise Panel, the Adviser to the Professional Appeals Board will be responsible for arranging the hearing. This will include:
 - (i) ensuring that the Professional Appeals Board is established in accordance with Section E of the Fitness to Practise Procedures;
 - (ii) Convening the meeting taking account of prescribed notice periods;
 - (iii) notifying the student of the procedure to be followed, of the membership of the Board and the identity of any other person who will be attending;
 - (iv) providing the student with an opportunity to make their own written submissions to the Board in advance of the hearing;

- (v) making a written account of the proceedings (responsibility for this may be delegated to a note-taker);
 - (vi) providing the student with a written outcome after the hearing which will include wider implications, where appropriate, for their continued registration:
 - (vii) providing the student with a Completion of Procedures letter.
- b) The student will be given a minimum of ten working days' notice of the date of the hearing. An electronic copy of the letter will be sent to the student's University email address. Postponement of a hearing shall be at the discretion of the Adviser and Chair of the Professional Appeals Board on consideration of the student's request. Under normal circumstances any re-scheduling of a hearing would take place within three months at the latest and students will not be permitted more than one request to postpone. Students may not normally request a postponement because of the non-availability of any person who they wish to accompany them to the hearing or of a witness. In any request for a postponement, the student should also indicate their earliest availability.
- c) The Professional Appeals Board will normally consider all information considered at the original Fitness to Practise hearing, the minutes of the hearing of the Fitness to Practise hearing, as well as the student's appeal statement and supporting information. Any additional documentation which the student or any other party wishes to submit must be submitted to the Adviser at least seven working days before the hearing for circulation to the student, members of the Board and attendees no later than five working days before the hearing. Papers submitted after this time will not be included and it is not permitted for papers to be tabled at the meeting.
- d) Where necessary to protect the identity of individuals not involved in the case, the Adviser may redact such references.
- e) Provided that due notice is given, the student is entitled to be accompanied by one other person acting as their friend. The University discourages students being accompanied by a family member as the most effective support for a student attending a Fitness to Practise hearing is provided by someone who understands the University's procedures such as the student's academic Adviser or a member of the Guild Advice Service or a representative of their professional organisation. However, the student is at liberty to choose whoever they wish to accompany them as a friend and is strongly advised to exercise this right.
- f) In addition to any person accompanying the student, students are permitted to bring a legal representative to the Professional Appeals Board hearing but only where the appeal is against termination of studies on the clinical programme. Students appealing against other decisions are, however, entitled to seek legal advice at their own expense and their statements can

be compiled on their behalf by persons legally qualified. The Professional Appeals Board would not normally accept a late decision by a student to seek legal advice to constitute grounds for postponement of a hearing date but may allow one postponement should the student's legal representative be unavailable on the scheduled date (see Section 4b) above).

- g) In writing to the student, the Adviser shall give the student an explicit deadline by which they must give notice of any person who will be accompanying or representing their and that person's contact details for receipt of papers. This deadline shall not be less than seven working days before the date of the hearing. If a student gives notice less than seven working days before the date of the hearing it will be wholly at the discretion of the Chair as to whether or not to permit the accompanying person or representative to attend.
- h) The student will be required to attend the meeting in person. If the student fails to attend without reasonable explanation, the Board will normally consider the case in the student's absence, provided that the Board is satisfied that there is evidence that the Adviser has made every reasonable attempt to communicate the date and time of the hearing to the student in accordance with the requirements under Section 4b) above. The Chair will have discretion as to what constitutes a "reasonable explanation".

5. Procedures during a Professional Appeal Board hearing

- a) The following Procedures are those that will normally be followed. The Chair, after consultation with the Board and the Adviser, may modify these Procedures in exceptional or unusual cases or to accommodate health or disability issues as 'reasonable adjustments', as long as the principles of natural justice, as set out in Section 1b) above, are maintained.

b) Procedure for a hearing

1. The student, the friend (if attending), the legal representatives (if attending) and other staff attending will join the Panel at the same time
2. The Chair will introduce by name and explain the responsibilities of the members of the Board, the other staff attending, and any others present.
3. The Chair will explain the powers of the Board.
4. The Chair will invite the student to present their case for appeal. The student may present this case themselves but may request that their friend or legal representative (if permitted) present it for them.
5. The Chair may allow Members of the Board to ask questions of the student. Where the student has chosen not to present the case themselves it is still expected that the student will in person answer any questions.

6. The Chair will invite the Chair of the Fitness to Practise Panel to summarise the decisions of the Panel and the reasons for those decisions. The Chair of the Fitness to Practise Panel may also at this point respond to any points raised by the student in their appeal statement or in their presentation of their case to the Board
7. The Chair may allow Members of the Board to ask questions of the Chair of the Fitness to Practise Panel. The student or their legal representative (if permitted) may ask questions of the Chair of the Fitness to Practise Panel through the Chair of the Professional Appeals Board
8. The Members of the Board may ask questions of the relevant School academic staff in attendance but such questions shall normally be limited to requests for factual information with regard to the student's academic standing, programme requirements and regulations or Professional Accreditation requirements. The student or their legal representative (if permitted) may ask questions of the relevant School academic staff in attendance through the Chair.
9. If the University is legally represented at the hearing, the Chair may call upon that legal representative at any stage of the hearing during which the student and their legal representative are present if the Board considers that legal advice is required.
10. Once the Chair is satisfied that the Board has completed its questioning and the student has had a full opportunity to convey information to the Board the student, any person(s) accompanying the student and any staff who are not members of the Board (except the Adviser), will withdraw. The Board will then discuss the case in private
11. If for any reason the Board 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.
12. The Board may adjourn but will make its decision as soon as reasonably practicable.
13. In the event that the Board upholds the appeal, then the matter will be referred back to the Executive Pro-Vice-Chancellor for the Faculty of Health and Life Sciences for either the establishment of a new Fitness to Practise Panel (with new membership) or the reconvening of the original panel. The further hearing shall normally be held within two months of the date of the Board's decision.
14. The decision, and any findings of fact, will be conveyed to the student and other interested parties as soon as practicable, and will in any event be conveyed to the student by email to the student's University email

address, normally within ten working days of the Board reaching its decision. If the appeal has not been upheld, the written communication will include a Completion of Procedures statement and provide the student with details of their option to take a complaint to the Office of the Independent Adjudicator for Higher Education (the OIA).

15. The Adviser 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.