

# The Academic Regulations Appendix 17: Fitness to Practise Procedures

2020-2021



Edge Hill  
University

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# The Academic Regulations

## Appendix 17 - Fitness to Practise Procedures

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## Summary

Edge Hill University offers a number of programmes ('Regulated Programmes') leading to qualifications that will enable students to:

- register and/or apply for membership with a designated professional body
- be accepted into a specified profession following the University certifying that they are fit to practise

For Regulated Programmes, academic success alone does not satisfy all the necessary requirements for entry into professional practice. In awarding the appropriate qualification(s), the University must be satisfied that the student will be a fit and proper entrant into the relevant profession.

From time to time concerns may be raised regarding a student's suitability to enter into their chosen profession. This may be for reasons relating to their personal or professional conduct, or their health and wellbeing.

In these circumstances, it is of paramount importance that the University monitors and, where appropriate, investigates all concerns to ensure that Edge Hill students are fit and proper individuals to enter professional practice.

Where such concerns are identified, this Fitness to Practise Procedure must be followed.

## Glossary of Terms

<b>Term</b>	<b>Meaning</b>
Protected Characteristic	<p>Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. The 'protection' relates to protection from discrimination.</p> <p>Protected Characteristics include:</p> <ul style="list-style-type: none"><li>• Age</li><li>• Disability</li><li>• Gender Reassignment</li><li>• Marriage and Civil Partnership</li><li>• Pregnancy and Maternity</li><li>• Race</li><li>• Religion and Belief</li><li>• Sex</li></ul>

	<ul style="list-style-type: none"> <li>• Sexual Orientation</li> </ul>
Regulated Programmes	Programmes of study that enable a student to register and/or apply for membership with a designated professional body and/or be accepted into a specified profession following the University certifying that they are fit to practise

## Purpose

The purpose of this document is to provide a framework to govern the consideration of fitness to practise cases. It is for staff so that they are aware of the process to follow, and for students so that there is complete transparency about the University's approach.

## Regulations

### 1. Introduction and scope

1. Edge Hill University offers a number of programmes leading to qualifications that will enable students to:
  - register and/or apply for membership with a designated professional body
  - be accepted into a specified profession following the University certifying that they are fit to practise
2. In delivering these programmes, Edge Hill will facilitate arrangements for suitable students to undertake practice placements in professional settings.
3. A list of each relevant programme is maintained by the University's Admissions Department. For the purpose of these regulations, all applicable programmes shall be referred to as 'Regulated Programmes'.
4. For Regulated Programmes, academic success alone does not satisfy all the necessary requirements for entry into professional practice. In awarding the appropriate qualification(s), the University must be satisfied that the student will be a fit and proper entrant into the relevant profession.

5. Each faculty must have arrangements in place to ensure that at the outset of programme delivery, students are made aware of the standards of professional and personal behaviour expected of them and the values that underpin these standards. Faculties must also ensure that students are well-equipped for professional life and that they are enabled to learn, understand and practise the standards expected for entry into their chosen profession.
6. From time to time concerns may be raised regarding a student's suitability to enter into their chosen profession. This may be for reasons relating to their personal or professional conduct, or their health and wellbeing. In these circumstances, it is of paramount importance that the University monitors and notes all concerns to ensure that Edge Hill students are fit and proper individuals to enter professional practice. Where concerns are identified, this Fitness to Practise Procedure (hereafter referred to as 'the/these Procedure(s)') must be followed.
7. This Procedure is not suitable for cases where a student is not meeting the required academic and/or practical standards for their course of study. Students failing to meet such standards should be considered under the usual aspects of the Academic Regulations relating to academic progression.
8. Upon graduating students, the University is declaring that it believes a student is fit to enter their chosen profession. It is therefore essential that all identified concerns relating to a student's fitness to practise are concluded before this time. Where a student in their final year of study is referred to these Procedures prior to graduation, the student will not be permitted to graduate until the procedures have been completed.
9. Where a student submits a complaint during fitness to practise proceedings, it may be appropriate to pause the fitness to practise process while the complaint is being investigated. This will depend on the nature of both the fitness to practise concerns and the complaint, and how they relate to one another. Where the issues are closely related, it will normally be appropriate for the University to consider the issues raised in the complaint as part of the fitness to practise process. In these cases, the University must keep students informed about which process is being followed, what is likely to happen next and expected timeframes.
10. Once started, a Fitness to Practise Investigation should be followed through to completion irrespective of whether the process has been paused (in line with 9 above) and/or where a student voluntarily withdraws from the programme concerned. Equally, students that voluntarily withdraw from their programme, or the University, remain entitled to engage in fitness to practise proceedings until they are completed.

11. Professional and regulating bodies reserve the right to apply any appropriate assessments for determining suitable entrants to the profession concerned. This may include a separate test of fitness to practise in addition to those administered at Edge Hill.

## 2 Identifying fitness to practise concerns

1. It is not possible or desirable to list every item that may question a student's fitness to practise. However, broadly speaking most fitness to practise concerns are likely to originate from a student's personal or professional misconduct or be related to the student's physical or mental health.

### *Personal misconduct*

2. The personal conduct of students wishing to enter certain professions may call into question their fitness to practise. Poor or irresponsible behaviour outside of their studies could bring the profession they wish to enter into disrepute. It may also raise concerns about a student's safety and suitability to enter professional life.
3. The following list demonstrates attitudes, behaviour and instances that may render a student's fitness to practise to be impaired:
  - A criminal conviction or caution for an offence committed anywhere in the United Kingdom (particularly if the offence is committed against individuals such as children or vulnerable adults)
  - A criminal conviction outside of the United Kingdom which would be an offence if committed within the United Kingdom (particularly if the offence is committed against individuals such as children or vulnerable adults)
  - The abuse of legal and/or illegal substances (such as alcohol, prescription medication, illegal drugs, etc)
  - Aggressive, violent or intimidatory behaviour towards others, irrespective of whether or not this leads to a criminal conviction or caution
  - Demonstrating open hostility (in person or through other means such as the internet) towards any person or class of persons, especially where this is based upon a belief (whether correct or not) that the person concerned has a protected characteristic under the terms of the Equality Act 2010

### *Professional misconduct*

4. Students registered on Regulated Programmes are expected to display the same standards of professional behaviour as those expected in the profession they seek to join. Where a student's conduct during formal teaching and/or

while on professional placement falls short of that expected from them, these Procedures may be invoked.

5. The following list demonstrates attitudes and behaviour that may render a student's fitness to practise to be impaired:
  - Failure to follow University regulations relating to student conduct leading to an investigation under the Student Disciplinary Regulations
  - Committing academic malpractice
  - Falsifying records or feedback given in relation to University assessments and/or practical tasks undertaken while on professional placement
  - Demonstrable poor attitude to teaching and learning
  - Failure to follow good practice in relation to matters regulated by specified statutory authorities (eg failure to ensure client confidentiality or to obtain patient consent in the health care sector)

#### *Physical and/or Mental Health*

6. The University recognises that it has a duty under the Equality Act 2010. The University does not discriminate on the grounds of disability (or any other protected characteristic) when determining which applicants are to be admitted to any of its academic programmes.
7. However, the University is also under a regulatory duty to ensure that applicants who are admitted to Regulated Programmes are safe and suitable entrants to the profession concerned. Accordingly, the University will ensure that reasonable efforts are made to support disabled students to fulfil the core competencies of their programme and enable them to work safely in a professional environment. This includes making reasonable adjustments to learning and assessment methods in view of advice from the University's disability support staff and/or an Occupational Health practitioner or other specialist.
8. The University operates on the assumption that all students are deemed fit to practise unless evidence arises that demonstrates otherwise. This incorporates all disabilities that a student may declare.
9. A physical or mental health condition alone is not usually sufficient to conclude impairment. It is normally a student's failure to seek the appropriate help or engage in the process to manage any condition that may call into question their fitness to practise.

10. In limited circumstances, matters relating to a student's physical or mental health may require this Procedure to be invoked. Depending upon the programme of study, such scenarios may include:

- Failure to be immunised against serious communicable diseases
- Failure to inform the University and/or placement provider of their medical condition to ensure the safety and wellbeing of both the student and others with whom they come into contact in their professional capacity
- Failure to obtain treatment and/or follow a care/treatment plan for ongoing physical or mental health conditions
- Lack of insight into how their medical condition could impact upon the safety and wellbeing of themselves and others with whom they come into contact in their professional capacity.
- An unwillingness to access medical and/or other support available to them.

11. Where a student is not able to demonstrate the necessary competencies, having exhausted all options for support and adjustment, a Fitness to Practise Investigation may be conducted.

### 3 Duty to Disclose

1. Students undertaking Regulated Programmes are expected to always act with honesty and integrity. Part of that responsibility is the declaration of previous findings relating to their fitness to practise when applying to join a Regulated Programme of study.
2. Students are obliged to disclose any relevant findings made by another University and/or educational establishment and/or a regulatory body from the sector in which the student wishes to qualify. This is irrespective of whether the findings are from within or outside the UK and this information will be requested as part of the Admission process.
3. Such disclosures are required to enable the University to decide whether it is appropriate to enrol a student on a Regulated Programme.
4. Failure to make such a disclosure will be treated as a serious disciplinary matter by the University and may mean that these Procedures are invoked.



#### 4 Sources of information and handling disclosures

1. The University will consider any information submitted to it which gives reasonable cause to believe that a student's fitness to practise may be impaired. Sources of concern may include, but are not limited to, the following groups:
  - Placement provider employees
  - University employees
  - Students (including self-referrals)
  - Medical professionals
  - Police and other government agencies
  - Regulatory bodies
  - General public
2. The University operates separate procedures to consider the general academic and personal conduct expected of all Edge Hill students. These procedures are Academic Malpractice Procedures and Student Disciplinary Regulations. Completion of those procedures may result in a referral to the fitness to practise process.
3. Each faculty must have appropriate procedures in place for receiving disclosures and notifications relating to fitness to practise. These procedures must be approved directly by the Pro-Vice Chancellor & Dean of Faculty, and ensure that
  - information on how to report a cause for concern is published and easily accessible
  - there is an appropriately skilled designated officer(s) ('the Designated Officer') to whom any initial concern relating to a student's fitness to practise should be directed
  - Designated Officers are suitably senior and experienced to decide whether an initial concern requires further action
  - arrangements for receiving and handling disclosures adequately protect and support the discloser and student concerned
  - a record is kept of each concern raised
4. Where the police or courts are already involved in a case, the University will normally wait for the outcome of the external investigation or proceedings before conducting an internal investigation. The University will keep in touch with the student(s) involved and with the police or relevant authority during this process. The University may, however, need to take some form of temporary action against the student, in order to protect other students, staff

members and service users. For example, by suspending the student from their placement.

#### *Anonymity and confidentiality*

5. If a person makes an anonymous complaint about a student, for example under whistleblowing procedures, the University will investigate the concerns with extra care. Those investigating the concerns will normally need to know the identity of the person making the complaint so that they can rule out the possibility that the report has been made maliciously.
6. Witnesses who are giving their professional opinion are not expected to be anonymous. If the witness does not agree to the student knowing their identity it may not be appropriate to rely on their evidence
7. Where evidence comes from service users during a practice placement, the placement provider and University must protect the confidentiality of service users. This is particularly important where those service users are children or vulnerable adults.

## 5 Initial consideration of fitness to practise concerns

1. On receipt of any concern relating to a student's fitness to practise, the Designated Officer will evaluate the information received and decide the appropriate course of action to take.
2. The Designated Officer should take the following factors into account when determining how to proceed:
  - The nature and seriousness of the allegation received
  - Any guidance issued by the University and/or the relevant regulatory body that relates to the nature of the concern
  - Any statement, letter, evidence, etc submitted in support of the allegation
  - Any relevant information held by the University about the student concerned which the Designated Officer deems it is legitimate to consider at this stage, for example previous disciplinary matters and/or fitness to practise concerns
3. Where the Designated Officer determines that there is cause for concern, they will decide whether there is an immediate need to suspend the student as a precautionary measure. Guidance on the considerations and procedures for suspension are provided in Annex A.
4. The Designated Officer should then decide whether the matter can be dealt with locally as a low level concern or whether a fitness to practise investigation should be conducted. In making this decision the Designated Officer should have regard to the following guidance:

### *Low level concerns*

On occasions, student behaviour may fall short of the standard expected of students in general and/or students on Regulated Programmes. Examples include lateness, missing submission deadlines and unauthorised absence from teaching sessions. These matters do not necessarily raise concerns about a student's ability to practise safely but are areas which must be addressed with the student in the context of their place on a Regulated Programme.

### *Matters giving rise to a fitness to practice investigation*

A combination of low level concerns may, over time, demonstrate a wider concern that suggests the student's fitness to practise is impaired. Further, individual events of a more serious nature may directly call into question a student's fitness to practise.

A fitness to practise investigation should always be undertaken where the Designated Officer believes that:

- the student poses a risk to themselves or any other person, particularly children, vulnerable adults and the public
  - the student's conduct fundamentally conflicts with the standards expected of the profession and may undermine the public's trust in the profession
5. Once the Designated Officer has classified the nature of the concern, the guidance provided in these procedures should be followed.

## 6 Low level concerns

1. Where a student is registered to a Regulated Programme, faculties must have appropriate processes to identify activities which might constitute a low level concern. Such arrangements, which must be directly approved by the Pro Vice-Chancellor & Dean of Faculty, should be clearly defined and be made available to students.
2. Any system for identifying, raising and monitoring low level concerns should work in conjunction with existing systems for assessment and serve to proactively address matters before they lead to more significant issues.
3. Low level concerns should be considered by a group or individual who is nominated, by the Pro Vice-Chancellor & Dean of Faculty, to address low level concerns and make decisions about whether a student has reached the threshold of their fitness to practise being impaired.
4. Students should be included in the process for considering low level concerns and be given a fair opportunity, including a reasonable notice period, to represent their view and provide any pertinent information. Precise timeframes are not however prescribed at this stage as a formal investigation has not yet been instigated and it is likely to be in the student's interest for the matter to be addressed as soon as is reasonably possible.
5. While one low level concern might not call into question a student's fitness to practise, repeated or sustained low level concerns may. Consideration of the student's previous behaviour and any patterns of persistent misconduct must be made as part of any low level concerns process.
6. It is not practical to define a threshold which low level concerns must reach before a fitness to practice investigation is necessary, and student behaviour must be considered on a case by case basis. However, when determining whether a low level concern has become a more serious issue or has reached the threshold for referral to a fitness to practise investigation, faculties should consider whether the student's behaviour
  - may be a risk to children, vulnerable people and/or the public
  - fundamentally conflicts with the standards expected of the profession and may undermine the public's trust in the profession
7. Consistency in applying the threshold is essential and faculties must take this into account when designing procedures to consider low level concerns.

8. Through the low level concerns process, faculties may create action plans for students and put specific conditions or targets in place. Occasionally, a student's behaviour may depart significantly from the expected standards, but not reach the threshold for referral to fitness to practise procedures. In these circumstances it may be appropriate to issue a written warning to the student without referring their case to a student fitness to practise panel or committee.
9. Any outcome or action taken in relation to a low level concern must be clearly justified and explained to the student. In addition, the implications of repeating the behaviour should be detailed for the student in writing.
10. Faculties should keep a record of all the decisions made regarding low level concerns so that persistent instances of poor behaviour may be followed up and appropriate records held in the event that a fitness to practise investigation is instigated.

## 7 Fitness to practise investigation

1. Where a Designated Officer believes a student's fitness to practice may be impaired, they should prepare a report of their findings for the Pro Vice-Chancellor & Dean of Faculty or their nominee (referred to hereafter as 'the Dean of Faculty').
2. In reviewing this report, the Dean of Faculty will consider whether the student's behaviour
  - may present a risk to children, vulnerable people and/or the public
  - fundamentally conflicts with the standards expected of the profession and may undermine the public's trust in the profession
3. If the Dean of Faculty believes the student's fitness to practise is not impaired, they will inform the Designated Officer of their decision and give reasons for this. In doing so, the Dean of Faculty may decide that no further action is necessary or refer the matter to be dealt with under the low level concerns procedures. A summary of proceedings and any follow up action will be provided to the student.
4. If the Dean of Faculty agrees that the student's fitness to practise may be impaired, they will normally appoint a senior academic from within the faculty to conduct an investigation ('the Investigating Officer'). The student will receive written notification of the investigation and a copy of these Procedures. Where an Investigating Officer is appointed, they should follow the advice from point 6 below.

5. On occasions there will be fitness to practise cases where a formal investigation of the facts is generally not necessary or required. For example, because of previous findings under a disciplinary procedure or as a result of a criminal conviction. Where the facts of a case have been established through another process, this will not detract from full consideration, in the normal way, being given to whether a student's fitness to practise is impaired. The Dean of Faculty may however refer these cases directly for a Panel's consideration. In these cases the Dean of Faculty is responsible for informing the student, in writing, of the Investigating Officer's decision. The Dean of Faculty must also inform the Academic Registrar of this decision and ask that a Panel is convened. The Academic Registrar will then appoint an officer from within Academic Registry to act as Panel Secretary. The Panel should meet as soon as reasonably possible and normally no later than 20 working days from the date the Investigating Officer calls for the Panel.
6. The Investigating Officer will normally be a member of the pool of potential fitness to practise panel members (see Annex B). They must have had no significant previous dealings with the student in question, and must not have been the student's personal tutor or have delivered content as part of the student's programme of study.

### *Investigation*

1. The role of the Investigating Officer is to gather information and evidence to inform a decision on whether the student's fitness to practise is impaired.
2. The University expects to complete any investigation within 20 working days of a referral being made. Where a longer period is required, the Investigating Officer must inform both the Dean of Faculty and the student in writing. This letter should briefly explain why the investigation cannot be completed within the original timeframe. It must also provide a date by when their decision will be reached.
3. The Investigating Officer is required to take all the action(s) they deem necessary to decide whether the student's fitness to practise is impaired. Such actions include the following:
  - Meeting with and taking a written statement from the person who raised the initial concern/complaint about the student's conduct
  - Meeting with and taking a written statement from the student in relation to matters raised in the concern/complaint
  - Meeting with and taking a written statement from all witnesses who may be able to provide information relating to matters raised in the concern/complaint

- Obtaining all other evidence available relating to matters raised in the concern/complaint (such as medical/occupational health records, CCTV or other images, etc)
4. Having received all evidence, the Investigating Officer will then determine whether they believe there is sufficient evidence to demonstrate that the student's fitness to practise is impaired. They will then inform the Dean of Faculty of their findings in writing.
  5. Where the Investigating Officer does not believe there is sufficient evidence to call into question the student's fitness to practise, they may make any of the following recommendation(s) to the Dean of Faculty:
    - To take no further action against the student
    - To refer the student for monitoring under the low level concerns procedure, which may include issuing the student with a formal warning in relation to their conduct and/or requiring the student to sign an undertaking which outlines any action(s) they must take to rectify their behaviour and/or to obtain necessary medical treatment
    - To refer the student for appropriate support
  6. Where the Investigating Officer believes there is sufficient evidence to call into question the student's fitness to practise, a fitness to practise panel (referred to hereafter as 'the Panel') should be convened.
  7. The Dean of Faculty is responsible for informing the student, in writing, of the Investigating Officer's decision. The Dean of Faculty must also inform the Academic Registrar of this decision and ask that a Panel is convened. The Academic Registrar will then appoint an officer from within Academic Registry to act as Panel Secretary. The Panel should meet as soon as reasonably possible and normally no later than 20 working days from the date the Investigating Officer calls for the Panel.



## 8 Fitness to practise panels

### *Administration*

1. A Panel Secretary will be nominated by the Academic Registrar.
2. The Panel Secretary is responsible for making administrative arrangements and informing the student, in writing, of the date and time at which the Panel will take place. At least 10 working days' notice must be given. This notification must also include the following information:
  - a copy of all the evidence that will be provided to Panel members
  - details of the student's right to provide any evidence they wish the Panel to consider in advance of the meeting
  - details of any witnesses called by the Investigating Officer or Panel, and information on the student's right to call their own witnesses
  - details of the student's right to be accompanied by a friend or representative of Edge Hill Students' Union and a copy of the University's guidance on 'The Role of a Student Friend at Academic Conduct Proceedings', which sets out the University's position on legal representation during an internal process.
3. The student is expected to appear before the Panel in the designated forum. Where appropriate, the Academic Registrar may agree that a student can participate through another means (for example by video call). In exceptional cases, for example verifiable illness, the Academic Registrar may agree to a scheduled meeting being deferred at the student's request. Where the student has been provided with sufficient notice of the date and time of the Panel but fails to attend without good reason, the Panel may continue in their absence.
4. Details of any person accompanying the student, witnesses called by the student and/or any additional evidence being submitted must be provided to the Secretary no later than two working days before the Panel.
5. Each Panel will consist of four individuals, as follows:
  - Chair – the Chair will be a dean or associate dean from a faculty other than the student's own, or a dean of service
  - One member of academic staff from the student's own faculty, drawn from the pool of nominated members (outlined in Annex B)
  - An Edge Hill Students' Union representative
  - One external professional representative from the student's chosen profession who is licensed/authorised to practise by the relevant professional body

6. No person who has previously been involved in the case or who has had any previous dealings with the student may be appointed to the Panel.

*Panel proceedings*

7. The role of a Fitness to Practise Panel is to make an independent decision on a student's fitness to practise and take appropriate action based on the evidence gathered and presented to them, noting that in all fitness to practise cases the burden of proof should be on the University. That is, the University must prove that the student has done what they are accused of doing. For example, if a student is accused of being rude to service users during a placement, the University should produce evidence to prove this and explain how this impairs the student's fitness to practise.
8. To ensure a fair hearing takes place, the University has a set process with which Panels must comply. This process is detailed in Annex C in the form of an agenda for Panel meetings.
9. Adhering to the process set out in Annex C will ensure that the Panel has considered all available information that is relevant to the case.
10. When all evidence has been presented, the Panel will commence their deliberations in private. Panel members are expected to be open with their discussions and to base their decision on the evidence that has been presented to them.
11. The Panel must be aware that the onus is on the Investigating Officer to prove, on the balance of probabilities, that the student's fitness to practise is impaired.
12. In reaching a decision Panels should have due regard for the need to take account of the public interest in the profession (which includes protecting public safety and maintaining trust in the profession) balanced with considering the interests of the student.
8. Having considered all the evidence available as to whether the student's fitness to practise is impaired, the Panel must then make a conclusion. In forming this judgement, the Panel must consider whether the student's behaviour
  - may be a risk to children, vulnerable people and/or the public
  - fundamentally conflicts with the standards expected of the profession and may undermine the public's trust in the profession

9. If the Panel finds that the student's fitness to practise is impaired, it must decide to what extent there is impairment and agree what action to take. While all Panels are expected to consistently apply the principles set out in these Procedures, the individual circumstances of each case will determine the specific action recommended by the Panel.
  
10. Where the Panel decides that the student's fitness to practise is not impaired, the following outcomes are available:
  - i. Take no further action
  - ii. Issue the student with an official warning regarding their future conduct
  - iii. Require the student to sign an undertaking in relation to their future conduct. This may include steps the student needs to take to ensure that any problems with their physical/mental health do not create a risk for themselves or others.
  - iv. Refer the student for monitoring under the arrangements for monitoring low level concerns
  - v. Any reasonable action, including referrals to support services, to enable the student to successfully undertake a Regulated Programme.
  
11. Where the Panel decides that the student's fitness to practise is impaired, the following outcomes, including a combination of these outcomes, are available:
  - i. Issue the student with an official warning about their future conduct.
  - ii. Require the student to sign an undertaking regarding their future conduct. This may include steps the student needs to take to ensure that any problems with their physical/mental health do not create a risk for themselves or others.
  - iii. Place conditions on the student's continued registration on the relevant Regulated Programme. Such conditions should not be arbitrary in nature, but designed to ensure that their future conduct and/or physical/mental health is appropriately monitored to ensure the safety of others.
  - iv. Require the student to undertake a specified period of interruption. At the end of that period, the student must satisfy the Dean of Faculty that they are suitable and safe to re-join their programme of study and that they meet all the normal criteria for entry to the programme relating to health and personal conduct.
  - v. Fail and withdraw the student from their programme of study but allow the student to apply to transfer to an alternative programme that does not lead to professional registration.

- vi. As a last resort, the Panel may decide that the student is failed and withdrawn from their programme of study and expelled from the University.

12. When deciding upon the appropriate outcome, the Panel must:

- consider outcomes in the order outlined above, ie in order of increasing seriousness
- agree that the outcome is appropriate for the circumstances of the case, and give reasons for the decision
- where possible, be consistent with previous decisions made in similar cases concerning other students.

13. If the Panel believe they have seen evidence of exceptional mitigating circumstances, they may use their discretion to impose a lesser sanction than would ordinarily be applied. Clear reasons must be given for any such decision, and the protection of others, including protecting the public's faith in the profession, must be the guiding principle in such decisions.

14. In their discussions, Panels should attempt to reach a unanimous decision regarding whether the student's fitness to practise is impaired and what action should be taken. Where this is not possible, a majority decision may be accepted. Where there is a split decision, the Chair will have the casting vote.

15. The Panel Secretary will inform the student of the Panel's decision and any sanction, in writing, within five working days of the decision being made. This letter will give detailed reasons about why the Panel came to its decision and advise the student of their right to lodge an appeal.

## 9 Appeals against fitness to practise decisions

### *Grounds for appeal*

1. Where a student does not agree with a Panel's decision they have the right to submit an appeal.
2. To lodge an appeal, the student must write to the Academic Registrar within 10 working days of the decision being communicated to them. The letter should set out the basis for the appeal and include all supporting evidence.
3. Appeals submitted outside the specified deadline will normally be ruled invalid. In exceptional circumstances, the Academic Registrar may exercise flexibility in the deadline where a student makes a demonstrable case that they would not reasonably be able to submit by the deadline. In such cases the student must contact the Academic Registrar detailing the reasons for the delay and stipulate the date that the academic appeal will be available for consideration. The Academic Registrar reserves the right to extend a submission deadline or to rule that an application cannot be submitted late.
4. The grounds for appeal are:
  - Procedural irregularity in the fitness to practise process
  - Bias, or perceptions of bias, at any point within the process
  - New evidence has come to light which, for good reason, was not available to the Panel and now may undermine the decision that they made
  - The decision made by the Panel was unreasonable in all the circumstances

### *Initial consideration*

5. On receiving written notice of an appeal, the Academic Registrar will appoint a senior manager from the University to consider the student's grounds for appeal. Senior managers for this purpose are defined as any member of staff on a Management contract.
6. The senior manager will decide whether the student's appeal meets one or more of the grounds outlined above and, where relevant, whether there is appropriate evidence in support of the case made.
7. If the senior manager believes the student does not satisfy any of the criteria to appeal, they will advise the Academic Registrar that there are no grounds for appeal. The student will be notified of this decision in writing. The letter will also inform the student that the University's internal procedures have been

completed and that any request for a review should be referred to the Office of the Independent Adjudicator for Higher Education.

8. Where the senior manager believes the student has satisfied one or more of the grounds to appeal, they will advise the Academic Registrar that an appeal panel should be convened. The Academic Registrar will identify a secretary to the appeal panel who will be responsible for convening the meeting.
9. In either case, the senior manager should respond to the student no later than 20 working days after the student lodged their appeal with the Academic Registrar. Where a decision cannot be made in that time, the senior manager should write to the student to advise them of the reason for the delay and propose a new date by when a decision can be expected to have been made.

### *Appeal Panel*

10. The Appeal Panel will be constituted as follows:
  - Chair: a member of the University's Directorate Management Group
  - one senior academic from the pool of nominated members in the student's faculty (see Annex B)
  - one representative from the Edge Hill Students' Union
  - one external professional representative from the student's chosen profession who is licensed/authorised to practise by the relevant professional body
11. To ensure a fair hearing takes place, the University has a set process with which Appeal Panels must comply. The process ensures that the student is able to put forward their case and all relevant matters are explored. This process is found at Annex D.
12. The Appeal Panel will hear only from those individuals from whom it is necessary to make the decision. This will ordinarily be limited to the student and the Chair of the original Panel. However, the Appeal Panel holds absolute discretion to determine who it hears from.
13. Having heard all relevant evidence, the Appeal Panel will deliberate in private. Appeal Panel members are required to openly discuss whether they believe the student has presented sufficient evidence which undermines the original decision to such an extent that it cannot stand.
14. Where the Appeal Panel decides that there is not sufficient evidence to call into question the original decision, the appeal must be rejected and the decision upheld.

15. Where the Appeal Panel decides there is sufficient evidence to question the original decision (in whole or in part), they should consider the appropriate course of action to take.
16. Where possible, the Panel should aim to determine a full outcome itself (see 9.17). However, if the Panel feels unable to decide on the outcome, for example where a significant amount of new information has been brought to light, they may remit the case to be considered in full by a new Fitness to Practise Panel.
17. The Appeal Panel holds the authority to reinstate a student to a Regulated Programme and/or apply any, or a combination of, the following outcomes:
  - i. Issue the student with an official warning about their future conduct.
  - ii. Require the student to sign an undertaking regarding their future conduct. This may include steps the student needs to take to ensure that any problems with their physical/mental health do not create a risk for themselves or others.
  - iii. Place conditions on the student's continued registration on the relevant Regulated Programme. Such conditions should not be arbitrary in nature but designed to ensure that their future conduct and/or physical/mental health is appropriately monitored to ensure the safety of others.
  - iv. Require the student to undertake a specified period of interruption. At the end of that period, the student must satisfy the Dean of Faculty that they are safe to rejoin their programme of study and that they meet all the normal criteria for entry to the programme relating to health and personal conduct.
  - v. Allow the student to register on an alternative programme that does not lead to professional registration and/or involve regulated activity such as placements in professional settings.
18. Where there is any dispute about facts within the case, the standard of proof applied will be the balance of probability.
19. In their discussions, the Appeal Panel should attempt to reach a unanimous decision. Where this is not possible, a majority decision may be accepted. Where there is a split decision, the Chair will have the casting vote.

20. The Appeal Panel Secretary will inform the student of the Appeal Panel's decision, in writing, within five working days of the decision being made. This letter will give detailed reasons about why the Panel came to its decision and explain that the University's internal procedures have now been completed.
21. There is no further right of appeal within the University following consideration of the matter by an Appeal Panel.

*Office of the Independent Adjudicator for Higher Education*

22. Where a student remains dissatisfied with the outcome of their Appeal, the student has the right to refer the matter to the Office of the Independent Adjudicator for Higher Education (the OIA) providing any such referral is made in accordance with the OIA's rules.



## 10 Supporting Students

1. It is important that students are made aware they can access support, both when concerns arise and during a formal fitness to practise assessment. Faculties must ensure that appropriate signposts are available.
2. Each faculty should appoint a member of staff to offer students support and guidance, help them understand the process and allay any concerns the student may have.
3. Nominated support staff must know what support is available to students and direct them to the appropriate service where necessary. These services may include:
  - Student wellbeing services (including mental health and counselling)
  - Disability support services
  - Occupational health services
  - Students' Union (Advice Centre)
  - Personal tutors
4. Staff members nominated to support students should not assist them in building the case they intend to present to the Panel. Students should be directed to the Edge Hill Students' Union Advice Centre for help and support in building their case.

## 11 Record keeping and disclosure

1. It is essential that the University keeps accurate and up-to-date records relating to a student's conduct and ability to practise safely. Each Designated Officer for Regulated Programmes must keep a secure log of all fitness to practise concerns.
2. The design of the log and how the concerns are recorded can be determined locally. However, as a minimum, the log must contain the following information:
  - Student name
  - The nature of the concern raised
  - Whether the matter was dealt with as a low level concern or referred for further investigation and whether a fitness to practise panel was convened
  - Whether the student's fitness to practise was found to be impaired
  - Any sanction imposed as a result
3. Records must be accurate, contain enough detail to allow informed decisions to be made (where necessary) and ensure annual reports can be created on request for monitoring purposes.
4. Records should be retained in accordance with the University's Records Retention Schedule.

### *Disclosure to professional bodies, regulators and the Disclosure and Barring Service*

5. The University follows the Data Protection Act 2018 when handling personal information. Accordingly, all students' personal and sensitive information is held securely and confidentially and only shared when legitimate and necessary.
6. Ordinarily consent will be obtained before a student's personal information is shared. However, information may be shared without direct consent where it is deemed that there is a potential risk to colleagues, the public and/or the student.
7. The University reserves the right to report any findings it has made about a student's fitness to practise to the designated professional organisation/regulator and/or other appropriate bodies. Ordinarily, such disclosures will only be made where the Dean of Faculty believes that to do so is an appropriate and proportionate means to protect others from any risk the student may pose. However, for certain areas, for example the Medical

School, the University is under a duty to disclose to the relevant regulator any fitness to practise issue considered by a formal panel, committee or hearing irrespective of the outcome. Students will be informed of this obligation in the relevant programme and/or module handbooks and, in sharing information, the University will always act in accordance with prevailing data protection principles.

8. In accordance with the Safeguarding Vulnerable Groups Act 2006, the University is also under a legal duty to refer to the Disclosure and Barring Service any person who:
  - has harmed, or poses a risk of harm as result of their conduct, to a child or vulnerable adult
  - satisfied the harm test (ie they have taken no action to harm a child or vulnerable adult, but the potential exists that they may do so in the future)
  - has been convicted of, or received a caution for, a relevant offence

#### Key to Relevant Documents

Not applicable

## Annexes

### Annex A: Suspension of study and/or professional placement

1. All persons defined as a 'Designated Officer' or 'Investigating Officer' and the Deans of Faculty have the authority to suspend students from practise and/or study in accordance with this Procedure.
2. At any stage in these procedures it may be determined that it is appropriate to temporarily suspend a student from practise and/or study until the concern has been fully investigated.
3. Suspension in this context is a precautionary measure serving to prevent any potential harm to the public or persons within the Edge Hill community. It may also be applied to limit the prospect of damage to public confidence in the profession concerned.
4. Suspension is a holding measure and is not indicative of a final outcome.
5. When determining whether suspension is appropriate, staff should ensure that a suspension is legitimate and proportionate in the circumstances.
6. Where it is decided that a student should be suspended, the staff member should notify the student in writing as soon as possible setting out the reasons they believe the suspension is necessary. This notification should also outline that the suspension will be in place for a specified period, which will normally be until the point a formal determination on the student's fitness to practise has been made.
7. Suspensions should be kept under regular review to ensure that they remain necessary and updates provided to students when appropriate.

## Annex B: Members of fitness to practise panels

The University requires an approved pool of staff from which to draw members of a Panel.

The following members of staff are automatically members of this pool:

- Pro Vice-Chancellors and Deans of Faculties
- Associate Deans of Faculties
- Dean of Learning Services
- Dean of Teaching and Learning Development

At the start of each academic year, Deans of Faculty will nominate a list of academic staff from Regulated Programmes who may sit as Panel members. These lists are held centrally by the Academic Registrar.

Acceptable nominees include:

- Module and/or programme leaders from Regulated Programmes
- Senior lecturers from Regulated Programmes
- Other academic members of staff with suitable experience. For example, those with previous experience of being a Panel member, or those who specialise in teaching matters relating to professional ethics and conduct.

The Edge Hill Students' Union also has the right to nominate any of its Elected Officers to sit as members of the pool.

Staff members with significant roles in the fitness to practise process, such as investigators, Panel or committee members and other relevant decision makers, must receive training in the legal requirements and good practice of equality and diversity specific to their role. These arrangements are coordinated by Academic Registry.

## Annex C: Agenda for fitness to practice panels

*Prior to the formal commencement of the meeting, Panel members will deliberate in private to discuss the case and highlight any areas which they believe require discussion.*

1. The Chair will call for the student and the Investigating Officer to enter the room and will
  - welcome the student and the Investigating Officer to the meeting and introduce each member of the Panel
  - outline the Panel's remit and the procedure that will be followed
2. The Chair will invite the Investigating Officer to present the case that the student's fitness to practise is impaired. The Chair will then
  - invite the student to ask the Investigating Officer any questions
  - invite the panel to ask the Investigating Officer any questions
3. The Chair will invite the Investigating Officer to call upon any witnesses (one at a time) to provide relevant evidence.
  - The Chair will call for each witness to enter the room. The Chair will introduce the Panel and outline their remit
  - The Chair will invite the witness to present their evidence
  - The Chair will then invite questions from
    - the Investigating Officer
    - the student
    - Panel members
  - When the witness' evidence has been presented, the Chair will thank them for attending and ask them to leave the room. Witnesses should remain outside the room in case any further information is required during the hearing.
4. The Chair will invite the student to outline their position in relation to each of the concerns raised. The Chair will then invite questions from the Investigating Officer and Panel members
5. The Chair will invite the student to call upon any witnesses (one at a time) to provide relevant evidence.
  - The Chair will call for the witness to enter the room, introduce the Panel and outline their remit

- The Chair will invite the witness to present their evidence
  - The Chair will then invite questions from
    - the student
    - the Investigating Officer
    - Panel members
  
  - When the witness' evidence has been presented, the Chair will thank them for attending and ask them to leave the room. Witnesses should remain outside the room in case further information is required during the hearing.
6. When the Chair is satisfied that the Panel has received all of the relevant evidence, they will ask the student if they have anything further to add. The Chair will also ask the student whether they feel that they have had a fair opportunity to present their case to the Panel.
  7. The Chair will outline that the Panel will now consider their decision in private. The student and the Investigating Officer should be informed that the decision will be communicated to them in writing within five working days. The Chair will then ask the student and Investigating Officer to leave the room and advise that they can release their witnesses.
  8. The Panel will recount the evidence heard and discuss whether they believe the student's fitness to practise to be impaired. Where the Panel are satisfied that the student's fitness to practise is impaired, they must then discuss what sanction to impose in accordance with 8.16 of the Fitness to Practise Procedures. In accordance with 8.15 of the Fitness to Practise Procedures, the Panel may also recommend a condition or sanction even where they do not believe, overall, the student's fitness to practise is impaired.
  9. Close.

## Annex D: Agenda for fitness to practise appeal panels

*Prior to the formal commencement of the meeting, Appeal Panel members will deliberate in private to discuss the case and highlight any areas which they believe require discussion*

1. The Chair will call for the student and the Chair of the Fitness to Practise Panel [*the FTPP Chair*] to enter the room and will
  - welcome the student and the FTPP Chair to the meeting and introduce each member of the Appeal Panel
  - outline the Appeal Panel's remit and the procedure that will be followed
  
2. The Chair will invite the student to outline the basis on which they appeal. The Chair will then
  - invite the FTPP Chair to ask the student any questions
  - invite the Appeal Panel to ask the student any questions
  
3. Where required, the Chair will invite the student to call upon any witnesses (one at a time) to provide relevant evidence.
  - The Chair will call for the witness to enter the room. The Chair will introduce the Panel, and then outline the Panel's remit
  - The Chair will invite the witness to present their evidence
  - The Chair will then invite questions from
    - the student
    - the FTPP Chair
    - Appeal Panel members
  - When the witness' evidence has been presented, the Chair will thank them for attending and ask them to leave the room. Witnesses should remain outside the room in case any further information is required during the hearing.
  
4. The Chair will invite the FTPP Chair to outline their position in relation to each of the bases on which the student is appealing. The Chair will then invite questions from the student and the Appeal Panel.
  
5. Where the Appeal Panel has decided to receive evidence from a witness(es) who participated in the original panel, the Chair will invite the FTPP Chair to call upon any witnesses (one at a time) to provide relevant evidence.



- The Chair will call for the witness to enter the room. The Chair will introduce the Appeal Panel and then outline their remit.
  - The Chair will invite the witness to present their evidence.
  - The Chair will then invite questions from
    - the FPHP Chair
    - the student
    - Appeal Panel members
  - When the witness' evidence has been presented, the Chair will thank them for attending and ask them to leave the room. Witnesses should remain outside the room in case further information is required during the hearing
6. When the Chair is satisfied that the Appeal Panel has received all of the relevant evidence, the Chair will ask the student if they have anything further to add. The Chair will also ask the student whether they feel they have had a fair opportunity to present their case to the Panel.
7. The Chair will outline that the Appeal Panel will now consider their decision in private. The student and FPHP Chair will be informed that the decision will be communicated to them in writing within five working days. The Chair will then ask the student and Investigating Officer to leave the room and advise them that they can release their witnesses.
8. The Appeal Panel will recount the evidence heard and discuss whether they believe the student has raised sufficient evidence upon which they can overturn the decision of the original Panel.
- Where the Appeal Panel is not satisfied that the student has raised sufficient evidence, they will uphold the decision and the Appeal Panel will be brought to a close
  - Where the Appeal Panel is satisfied the student has raised sufficient evidence, they will determine the course of action they intend to take in accordance with 9.15 of the Fitness to Practise Procedures
9. Close

## Endmatter

Title	Appendix 17: Fitness to Practise Procedures
Policy Owner	Academic Registrar
Approved by	Academic Board
Date of Approval	July 2020
Date for Review	July 2021 (last reviewed July 2020)