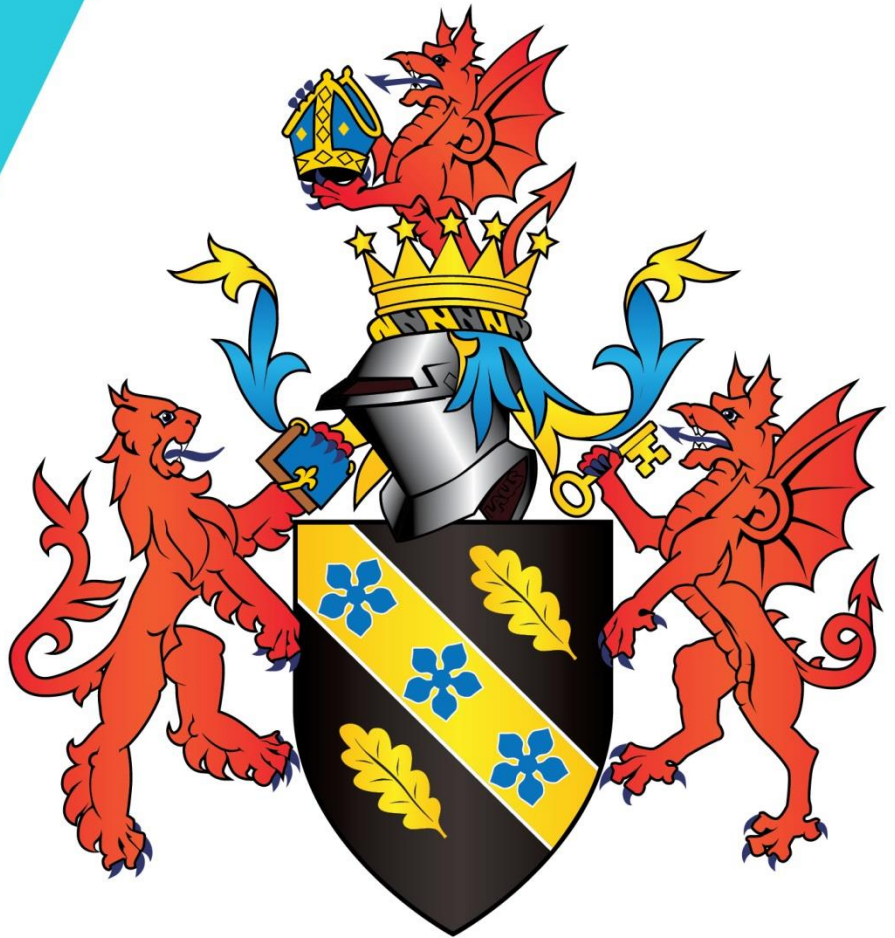




Prifysgol Cymru  
Y Drindod Dewi Sant  
University of Wales  
Trinity Saint David



# Fitness to Practise Policy

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# 1 Introduction

- 1.1 This policy covers the University's procedures in relation to Fitness to Practise and outlines the procedures that should be followed where there is cause for concern in relation to Fitness to Practise.
- 1.2 The University offers a wide range of professionally focused programmes. For a number of programmes of study, students must satisfy the University that they meet the requirements of professional bodies. The University may be required to sign a declaration confirming that an individual is a safe and suitable entrant to the given profession and is Fit to Practise.
- 1.3 Students enrolled on professionally focused programmes of study are required to display appropriate professional behaviour during their studies. This is behaviour that:
- a) conforms to the relevant code of professional conduct or practise (if any)
  - b) is consistent with the behaviour required by the relevant profession and by the employers of such professional staff;
  - c) does not jeopardise or put at risk the welfare, wellbeing or safety of others, including those within the university community, professional staff, patients, pupils, clients, or members of the public.
  - d) does not jeopardise or put at risk the student's own welfare, wellbeing, or safety.
- 1.4 Examples of circumstances that might render a student Unfit to Practise are given below. This list is not exhaustive, and the examples may not all be applicable to every programme.

## *Unprofessional Conduct*

- a) Offences against the vulnerable, including children, the elderly and the mentally impaired;
- b) Exploiting the vulnerability of a child, patient or professional client, including establishing a sexual relationship;
- c) Chronic drug or alcohol abuse;
- d) Acting in a violent or aggressive manner on or away from University premises;
- e) Conviction of a criminal offence;
- f) Intimidation of fellow students, pupils, patients, professional clients or staff;
- g) Failure to rectify behaviour that has been subject to any disciplinary actions under the University's regulations;
- h) Repeated inappropriate behaviour or attitude;
- i) Falsification of patient, client or other professional records or providing false or inaccurate statements or answers on self-declaration forms.
- j) Failing to act in a way to ensure the safety and wellbeing of those who are vulnerable;
- k) Academic misconduct.

## *Health*

- l) A physical and/or mental health issues that compromises the individual's ability to comply with the professional requirements.

## 2 Purpose

- 2.1 The University has a responsibility to ensure that students who come into contact with persons under the age of 18, vulnerable adults, patients, clients or general members of the public as part of their research or studies are Fit to Practise and that students who gain a professional qualification or the right to practise in one or more professions through their studies are Fit to Practise in such professions.
- 2.2 The policy aims to ensure that Fitness to Practise Procedures are conducted in a fair, transparent and timely manner.
- 2.3 The policy also aims to ensure that the University applies the principles of natural justice, exercises an appropriate duty of care, fulfils its statutory and ethical responsibilities to the student, professional bodies and the public at large, and complies with all relevant legislation.

## 3 Scope

- 3.1 This policy covers students who are registered directly at the University of Wales Trinity Saint David and are enrolled on a programme of study that leads directly to or is a necessary condition of a professional qualification or gives the student the right to practise in one or more professions.
- 3.2 This policy also includes programmes that are not presently or in prospect of being linked to a Registration or Regulatory Body but will require the student to undertake school-based, clinical- or other practice-based and work-based placements.
- 3.3 For students registered on such programmes of study at collaborative partnership institutions or at Constituent Colleges of the University, normally procedures from that institution are followed in the first instance. However, such students are entitled to submit an appeal to the University with respect to the outcome of their case. See section 18 of this policy.
- 3.4 This policy may be applied to former students of the University of Wales Trinity Saint David, particularly where Fitness to Practise proceedings were instigated while the former student was still a registered student at the University. If a student withdraws from the programme after Fitness to Practise procedures have started, the University may decide to continue to implement the procedures to completion. See also 16.4.v.
- 3.5 In cases where the Fitness to Practise concern is in relation to a student who is both a student and a member of staff, a decision shall be made first as to whether student or staff procedures shall be instigated.
- 3.6 The policy covers both on and off campus settings ( including social media, University residential accommodation, behaviour in the community and on University related activities away from the University, such as placements, work-based practise & learning, exchanges, sandwich year, internships, and field trips) and covers both harm and risk to the student, the University community, and wider public.
- 3.7 Although disciplines may have specific external regulatory requirements for determining Fitness to Practise, it is expected that the procedures outlined in this policy will be applied to all students where there is 'cause for concern' in relation

to their Fitness to Practise and that the specific external regulatory requirements will be embedded at set points within this overarching, generic policy.

- 3.8 Cause for concern in relation to a student's fitness to practise can be raised by a member of staff, but also by those within the profession (e.g. employers within a work-based learning setting or placement setting) or by the pupils, patients or professional clients served by the profession.
- 3.9 Procedures to be followed in relation to the admission of an applicant with a disability or serious medical condition to the programmes outlined in this section are contained in the University's Admissions Policy.

## 4 Relationship and interface with other policies and procedures

- 4.1 There are a number of strategies, policies and procedures that are connected to this Fitness to Practise Policy, including:
  - a. Compensatory Measures Procedures;
  - b. Extenuating Circumstances Procedures;
  - c. Fitness to Study Policy;
  - d. Health and Safety Policy;
  - e. Information Technology and Systems Acceptable Use Policy;
  - f. Placement Protocol;
  - g. Prevent procedures;
  - h. Safeguarding Policy;
  - i. Social Media Policy;
  - j. Student Harassment and Bullying Policy;
  - k. Student Disciplinary Policy (Non-Academic Misconduct);
  - l. The Strategic Equality Plan;
  - m. Unfair Practice Procedure (for Academic Misconduct).
- 4.2 Before any formal procedures are instigated, the University will consider which procedure(s) are the most appropriate to be used in relation to the alleged offence.
- 4.3 The University will reassess what procedures are used as appropriate and may change or add procedures as appropriate. It may be the case that two policies are used in tandem (e.g. the Fitness to Practise Policy and the Student Disciplinary Policy [Non-Academic Misconduct]). Or it could be that the Student Disciplinary Policy (Non-Academic Misconduct) is followed by procedures under the Fitness to Practise Policy.
- 4.4 Where two or more policies or procedures are applicable at the same time, normally one policy will be the primary policy in terms of process. Students will be informed which policy, policies and/procedures are used in their case.
- 4.5 Where criminal proceedings are involved as a result of non-academic misconduct, the University will follow the procedures as outlined in the Student Disciplinary Policy (Non-Academic Misconduct)

## 5 Mitigating circumstances and reasonable adjustments

- 5.1 Reasonable adjustments will be made as appropriate in relation to the process and communicating the outcome for students who have disabilities or other health issues. Where students have not already formally declared a disability to the University prior to formal procedures being started, they are advised to make such a declaration as soon as possible during the formal processes so that it is possible to make reasonable adjustments as appropriate. The Student Services Department will make the decision in relation to the exact nature of any reasonable adjustments needed, in consultation with the student and ensuring external advice is taken as appropriate. Formal processes may be suspended until reasonable adjustments have been put in place.
- 5.2 A student's disability may be a mitigating factor in relation to the Fitness to Practise concern. However, upholding the expected professional standards is paramount for the University.
- 5.3 Mitigating circumstances are not normally relevant to deciding whether a student has breached the professional code of conduct, but they are normally taken into account when deciding on measures that need to be taken to address the Fitness to Practise concern.
- 5.4 Students will have the opportunity to present any mitigating circumstances or factors that they believe should be taken into account in relation to the alleged concern. Normally, such circumstances and factors will be presented as part of the investigative process. Mitigating factors might include:
- The misconduct is a minor example of a serious breach of professional conduct;
  - It is a first time that a fitness to practise concern has been raised;
  - The student admits to the breach of professional conduct at the earliest opportunity;
  - The student is proactively addressing the issues that led to the concern about their Fitness to Practise;
  - The student has expressed remorse for the breach of professional conduct;
  - The student has compelling personal circumstances that affected their judgement.

## 6 Representation

- 6.1 Students may decide that they would like a named representative (e.g. parent, guardian or third party) to be copied into any communication in relation to their case. Such a request needs to be made by the student in writing to the Office of the Associate Pro Vice Chancellor (Student Experience).
- 6.2 Legal representation is only allowed in exceptional circumstances. Such a request for legal representation needs to be made in writing to the Office of the Associate Pro-Vice Chancellor (Student Experience).
- 6.3 The student is allowed to nominate a named representative, e.g. to accompany them to any meetings or in relation to communication about their case. Legal representation is only allowed in exceptional circumstances.

- 6.4 In exceptional circumstances, where a student is not able to represent him/herself and it is not appropriate to delay the formal process until they are able to, a representative may be appointed. Where appropriate, a written request will need to be submitted to the Office of the Associate Pro Vice-Chancellor (Student Experience). Independent evidence will need to be considered as part of this request.

## 7 Responsibilities

- Fitness to Practice strategies and processes are overseen by Council.
- The Fitness to Practise policy is the responsibility of Senate.
- Fitness to Practise procedures are overseen on behalf of Senate by the Associate Pro Vice-Chancellor (Student Experience).
- The Deputy Vice-Chancellors are responsible for making decisions in relation to the suspension or termination of studies.
- Case Officers fulfil a range of roles in relation to a Fitness to Practise case, including undertaking any preliminary risk assessment, completing an investigation, and making a recommendation in relation to Fitness to Practise to a Case Review Panel. A case may have more than one Case Officer, each with a specific role in relation to the case.
- A Senior Officer will undertake the review of the appeal.
- Faculties are responsible for ensuring that students, enrolled on such programmes of study, are informed of the Fitness to Practise standards expected from them in relation to their profession.<sup>1</sup>
- Faculties are also responsible for informing professionals (e.g. in a work-based learning or placement setting) of the University's policy framework.
- Faculties are responsible for ensuring that the procedures outlined in this policy are used appropriately in relation to any informal resolution (as outlined in section 10).
- Students are responsible for both disclosing any circumstances and any changes to the circumstances that could affect their continued fitness to practise (e.g. a change in health status, a subsequent criminal conviction, a complaint or disciplinary matter that arises during a work placement).

## 8 Definitions

- 8.1 In addition to the **Student Code of Conduct** which sets out expected standards of behaviour of all enrolled students, there are Fitness to Practise requirements for particular disciplines. Any behaviour that contravenes either the Student Code of Conduct or any discipline specific professional requirements will 'cause concern' in relation to a student's Fitness to Practise.
- 8.2 **The student'** = the student about whom a cause of concern in relation to fitness to practise has been raised.
- 8.3 PSRB = Professional, Statutory or Regulatory Body.

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<sup>1</sup> For the responsibilities of Faculties in relation to admission of students to such programmes of study see the University's Admissions Policy. A Disclosure and Barring Service (DBS) check is a mandatory requirement for all students working with children, young people and vulnerable adults.

- 8.4 In relation to Fitness to Practise concerns, the investigation will seek to establish whether the case is **complex** or **non-complex**. Complex cases are referred to a Case Review Panel; non-complex cases proceed immediately to an outcome. **Complex** cases include cases where there is conflicting, inconclusive or inconsistent evidence, where there is a high level of risk, or where the consequences for the student are potentially very serious.
- 8.5 Fitness to Practice concerns are classified as either **minor** or **major** depending on the severity of the issue(s). A series of minor issues may count as a major concern, particularly where earlier intervention or remedial action has failed (see section 10).

## 9 Support

- 9.1 The welfare of students and staff is important to the University. The University will ensure that all parties involved in Fitness to Practise Procedures have access to support, information, advice, and assistance throughout the process. Where appropriate the University will refer to external support services to provide further specialised support. Support can take a range of forms, depending on what is needed and appropriate in each individual case. The formal process may be suspended until access to appropriate support has been arranged.
- 9.2 Where Fitness to Practise processes are instigated, consultation will take place with the Student Services Department to make sure that the student's immediate support needs are adequately considered.
- 9.3 Students in relation to whom Fitness to Practise Procedures are instigated will be treated fairly and no presumptions will be made about their Fitness to Practise until the relevant process has been concluded (see also sections 11 and 12).

## 10 Processes for informal resolution and for dealing with minor breaches of professional conduct and minor concerns about Fitness to Practise

- 10.1 Although, depending on the severity of the situation, the University may immediately instigate formal Fitness to Practise Procedures, normally it would be expected that it was first attempted to use informal interaction and intervention methods.
- 10.2 Students who are concerned about a change in their circumstances that could affect their continued Fitness to Practise are encouraged to contact the Student Services Department, their welfare contact in their School or Faculty, or their academic or personal tutor to consider together what solutions may be appropriate. An action plan may be drawn up.
- 10.3 Staff who are concerned about a student's Fitness to Practise can either approach the student to try and ascertain whether there is an issue that may require support or suggest that the student contacts their personal or year tutor, the Faculty's or School's welfare link, or the Student Services Department for advice and support.



- 10.4 Professionals who are concerned about a student's Fitness to Practise (e.g. as a placement provider) are asked to contact the student's School or Faculty as soon as possible.
- 10.5 Anything that is agreed with the student as a result of informal intervention (e.g. additional support mechanisms allocated, new deadlines agreed for assessments, action plan drawn up, conduct agreed, changes made in relation to a placement) will be confirmed in writing so that there is a written record of informal action taken. Students will be told that any breaches of professional conduct or Fitness to Practise cause for concern will be taken into account in future Fitness to Practise procedures.
- 10.6 For minor, straightforward alleged breaches of professional conduct or Fitness to Practise concerns, normally a local (e.g. Faculty or Professional Services-led approach) is followed. This may involve a meeting with a named member of staff from such a unit.
- 10.7 The Office of the Associate Pro Vice-Chancellor (Student Experience) has a list of named members of staff that are able to deal with minor, straightforward alleged breaches of professional conduct or Fitness to Practise Concerns at a local level. This list includes members of staff in roles such as Programme Director, Head of School, Accommodation Officer, and Principal Student Services Officer.
- 10.8 Penalties that may be imposed for minor breaches of professional conduct include a behavioural contract, apology, action plan, remedial action, or a formal written warning. Additional support mechanisms could also be put in place and changes could be made to placements (see 10.5).
- 10.9 Any penalties that are imposed for minor breaches of professional conduct need to be logged centrally with the Office of the Associate Pro Vice-Chancellor (Student Experience).
- 10.10 Although students can be excluded from an immediate element of a module or placement following an alleged breach of professional conduct, students are not able to be excluded for a further fixed term period or permanently from (part of) their studies or from any University services or facilities because of a minor breach of professional conduct.
- 10.11 Faculties and Professional Service Departments normally complete the process for minor breaches of professional conduct within ten clear working days.
- 10.12 Students are able to appeal against outcomes of minor breaches of professional conduct. See section 18
- 10.13 Where the named staff in Faculties or Professional Services are not sure whether an alleged breach of professional conduct or Fitness to Practise concern needs to be classified as minor or major, advice can be sought from the Office of the Associate Pro Vice-Chancellor (Student Experience).
- 10.14 Where the alleged breach of professional conduct is major, where there are multiple, repeated or continued minor breaches of professional conduct, where the student refuses to cooperate to address issues of professional conduct, where Fitness to Practise concerns remain despite informal intervention strategies or where earlier remedial action has not been successful, it is expected that matters will be proceeded to a formal stage, following formal Fitness to Practise processes for major Fitness to Practise concerns as outlined in this policy.

## 11 Criminal processes

- 11.1 In the event of external criminal processes being commenced in relation to alleged non-academic misconduct, please consult section 8 in the Student Disciplinary Policy (non-academic misconduct). Where criminal processes have been instigated, formal procedures will always be used.

## 12 Formal procedures: general principles

- 12.1 Formal procedures are instigated on either or both of the following grounds:
- i. any conduct which may render that student a person not fit to be admitted to and practise that profession;
  - ii. any health issue or condition which may render that student a person not fit to be admitted to and practise that profession.
- 12.2 All Fitness to Practise cause of concerns will be handled by an appropriately independent member of the University (= Case Officer).
- 12.3 References in this policy to steps or actions by specific University post holders shall be read as including reference to their nominees. In addition, in order to avoid delays or potential conflicts of responsibilities, other staff members may undertake tasks allocated to specific post holders.
- 12.4 Delays to placements or other University-related activities may occur as a result of a case being referred to Fitness to Practise Procedures.
- 12.5 All matters considered under this policy and set of procedures will be dealt with according to the individual's circumstances. Whilst seeking to ensure consistency of approach and application, the University reserves the right to vary the precise details of the procedure applied to the circumstances of a particular case (e.g. depending on the discipline specific requirements in relation to Fitness to Practise).
- 12.6 The student's views will, where possible and appropriate, form part of the considerations at all key stages of this set of procedures.
- 12.7 The University will wherever possible seek to adhere to the time limits outlined within these procedures, but in cases where there are special circumstances which require variance from specified time limits, the student will be advised of the reasons for this. The student will also be advised about any delays to the process as appropriate.
- 12.8 The University reserves the right to take no further action at various stages of the Fitness to Practise procedures if it is considered that there are insufficient grounds or evidence to do so.
- 12.9 During the application of this policy the University reserves the right to adjourn any fitness to practise investigation or hearing and reconvene at a later date.

- 12.10 The student will be informed in writing as soon as appropriate and possible after the decision has been made to start formal procedures. Supporting evidence will be given to the student as appropriate to explain this step. If any new or additional evidence emerges during the formal procedures the student will be informed about these and will be given the opportunity to respond.
- 12.11 The student will be invited to any meeting or hearing, normally at least two clear working days before the meeting. However, there may be circumstances where an urgent risk assessment or investigation is required and in this case a verbal invitation with less than two days' notice will be given.
- 12.12 Where possible and practical, the student will be given the opportunity to attend any meetings or hearings related to the Fitness to Practise proceedings or any appeal in person. If attendance in person is problematic, the student may also attend the meeting by electronic means. However, the University reserves the right to proceed with any investigative meeting, Fitness to Practise hearing or appeal meeting in the absence of the student, subject to the student having been properly notified of the date and time of the hearing (failure to attend without due notification may lead to disciplinary action), or in cases where criminal proceedings do not allow the student to attend in person. In exceptional circumstances, a representative may be appointed (see section 6).
- 12.13 Where the student has communicated in response to a meeting notification that he/she is not able to attend such a meeting for a good reason, the University will normally rearrange the date of such a meeting.
- 12.14 The student will have the right to be accompanied by a person of his/her choosing at any investigative meeting or Fitness to Practise hearing and is required to inform the University in writing in advance of any meeting or hearing whether he/she intends to be accompanied. The accompanying person shall not normally contribute to the discussions.. Legal representation is only allowed in exceptional circumstances. Such a request for legal representation needs to be made in writing to the Office of the Associate Pro-Vice Chancellor (Student Experience).
- 12.15 The student will be advised of the identity of the Case Officer, and, subject to any obligations of confidentiality, will normally be informed of the identity and capacity of any persons with whom the University may consult about the case. The student will also be informed about the attendance at any meetings of any members of staff other than the Case Officer and, if held, of the members of a Case Review Panel.
- 12.16 The panel will be able to ask questions from the student as part of the processes outlined in appendix SE5.
- 12.17 No meetings will be recorded and the University does not allow for any meetings to be recorded covertly. Notes or minutes will be provided for each meeting held. All relevant parties will be asked to sign for any statements. Where there is a disagreement that cannot be solved, two versions may be submitted to the Case Review Panel or as part of the appeal.
- 12.18 The rights and interests of both the student and any other parties will be balanced fairly and equally.
- 12.19 All relevant parties will be supplied with a copy of this policy and any other policy or procedures that are applicable.

12.20 The University will ensure that all written records related to the case are clear, accurate, and appropriate, and will be stored appropriately.

## 13 Precautionary action

13.1 At an early stage in the formal Fitness to Practise proceedings, a risk assessment, using the risk assessment form, shall take place to assess whether there is a risk to the student, a risk to any member(s) of the University community or a risk to anyone associated with the student's intended profession. This risk assessment will include consideration of support arrangements that need to be put in place for all parties involved.

13.2 A risk assessment shall take place to assess whether the student poses a risk to:

- his/her own health, safety, and/or wellbeing;
- the health, safety, and/or wellbeing of others;
- and/or University property or any other settings associated with University activities (e.g. placement settings); and/or
- the reputation of the University and/or the reputation of the profession.

13.3 Particularly swift precautionary action will need to be taken in cases where there is a risk of serious harm, where the student's mental health is at risk, where the student displays significant distress, where the issues are highly sensitive and where there is an ongoing threat of serious disruption to other students or the University's activities.

13.4 Risk assessments are normally undertaken by the Case Officer but may also be undertaken by an appropriate Senior Officer of the University, particularly in relation to cases with urgent, high-level risks as outlined in 12.1.

13.5 The initial risk assessment will normally be completed within five clear working days. Additional time may be needed to consider and approve a set of reasonable adjustments and support arrangements, particularly where external evidence is required.

13.6 The student will, where possible and appropriate, be consulted as part of the risk assessment to represent his/her views in relation to their part of the assessment.

13.7 If risk levels are high, precautionary measures may be imposed. Precautionary action must be reasonable and proportionate and may include the imposing of certain conditions, a suspension from studies, suspension from a placement, or exclusion from any or all University grounds and/or facilities pending the outcome of Fitness to Practise proceedings. The suspension and/or exclusion may be qualified or partial where appropriate and will be for a fixed term.

13.8 Precautionary measures involving a suspension of studies must be approved by a Deputy Vice-Chancellor.

13.9 A precautionary suspension, exclusion or set of conditions should not be regarded as a penalty and does not indicate that the student is not Fit to Practise.

13.10 Precautionary measures may be put in place if they are necessary:

- 13.11 To ensure that a full and proper investigation can be carried out and/or
- 13.12 To protect the student and others whilst the allegation is being dealt with as part of Fitness to Practise Procedures.
- 13.13 When precautionary measures are put in place the student will be informed of these in writing by the Office of the Associate Pro Vice Chancellor (Student Experience) and the reasons for the set of measures will be explained. A meeting may be convened to explain precautionary measures. In case of urgent risks, the student may be informed verbally in the first instance.
- 13.14 The student may appeal against the precautionary measures imposed,<sup>2</sup> by submitting a written request stating the reason for the appeal to Office of the Associate Pro Vice-Chancellor (Student Experience) within five clear working days of the date issued on the notice of the precautionary measures. The student will be notified of the final decision of his/her appeal within ten working days of the receipt of the letter requesting an appeal.
- 13.15 Whilst the precautionary measures are in place, the student may request a review of the suspension, exclusion or set of conditions if there is a relevant change to his/her circumstances. This request should be made in writing to the Office of the Associate Pro Vice-Chancellor (Student Experience), who will normally respond within ten clear days of the receipt of the letter.
- 13.16 If the student fails to comply with any precautionary measures, the precautionary measures will be reviewed which may result more serious precautionary measures being imposed by the Associate Pro Vice-Chancellor (Student Experience) (or nominee).
- 13.17 Precautionary measures will be reviewed at regular intervals during the formal procedures.

## 14 Procedures for investigation

- 14.1 Care will be taken that the Case Officer appointed is impartial and not implicated. The Case Officer is normally a member of University staff, but could, in exceptional circumstances, be external to the University.
- 14.2 If there are any concerns in relation to the Case Officer, parties are asked to express those concerns in writing to the Office of the Associate Pro-Chancellor (Student Experience) who will consider any such concerns.
- 14.3 The purpose of the investigation is to gather all information necessary to establish the facts in relation to Fitness to Practise concerns, to recommend whether or not a case needs to be referred to the Case Review Panel, and to enable an informed and reasoned decision as to whether the student is Fit to Practise.
- 14.4 To this end, the Case Officer will seek to collate and evaluate evidence in relation to the student's Fitness to Practise, interview relevant parties, question discrepancies and make findings of fact on the balance of probabilities.

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<sup>2</sup> Where action has had to be taken in order to mitigate against urgent risks, it may not be possible to appeal against the full set of precautionary measures.

- 14.5 The student will be informed of the scope and the remit of the investigation.
- 14.6 As part of an investigation, normally all parties are interviewed separately. All parties will be informed how their evidence will be used and shared so that they understand the process and give informed consent.
- 14.7 Any witnesses are normally also met as part of an investigation. To aid the investigation, all involved parties will be asked indicate if there are any relevant witnesses that need to be consulted.
- 14.8 Witnesses will be asked to sign their witness statement and will be asked to give written consent for their evidence to be used and identity disclosed at a Case Review Panel.
- 14.9 As part of an investigation, the Case Officer will consult with the student to explain the cause for concern and allow the student the opportunity to respond to the allegation, and provide the Case Officer with any evidence that they wish to be taken into account.
- 14.10 The Case Officer will also consult with other University staff, external professionals and other persons, as appropriate.
- 14.11 As part of the investigation, the Case Officer may consult as appropriate with the relevant PSRB in order to seek their advice.
- 14.12 The entire investigation is normally concluded within 30 clear working days of the offence being alleged.
- 14.13 Once the investigation has been completed, the Case Officer will submit their investigative findings to the Office of the Associate Pro Vice-Chancellor (Student Experience) and make a recommendation as to whether the case is complex and needs to proceed to a Case Review Panel.
- 14.14 Where the Case Officer is not clear whether the Fitness to Practise concern should be classified complex or non-complex, the Case Officer will refer the case to the Associate Pro Vice-Chancellor (Student Experience), providing details of the investigation, in order for a final decision regarding the classification to be made.

## 15 Formal Procedures

- 15.1 If the Case Officer's recommendation that the case is non-complex is confirmed by the Associate Pro Vice-Chancellor (Student Experience), the Associate Pro Vice-Chancellor will make a decision in relation to the outcome.
- 15.2 The Associate PVC (Student Experience) will explain the rationale for the procedure followed after the completion of the investigation, the classification of the concern as non-complex, and confirm the outcome to the student in writing, normally within ten clear working days of the completion of the investigation. A meeting may be conveyed with the student to discuss and explain the outcome.
- 15.3 If the recommendation from the Case Officer that the case is complex is confirmed by the Associate Pro Vice-Chancellor (Student Experience), the case will be referred

to a Case Review Panel. The rationale for the procedure followed after the completion of the investigation, the classification of the case as complex, and the decision to proceed to a Case Review Panel will be communicated to the student in writing, normally within five clear working days of the completion of the investigation.

- 15.4 The date of the panel, membership, and format of the Case Review Panel will be communicated to the student in advance of the proceedings by the Office of the Associate Pro Vice-Chancellor (Student Experience), normally not less than ten clear working days in advance of the meeting.
- 15.5 Any documentation for the meeting of the panel will be circulated to the members of the Fitness to Practise Panel, the student and the Case Officer, normally not less than five clear working days in advance of the meeting.
- 15.6 Following the meeting of the Case Review Panel, the student will be formally notified of the outcome in writing within five clear working days of the meeting of the Case Review Panel.

## 16 Outcomes

- 16.1 In making any Fitness to Practise decisions the University will determine:
  - i. whether the alleged facts and matters occurred on the balance of probabilities;
  - ii. whether those facts and matters affect a student's Fitness to Practise and, if so, the level of seriousness of the breach of professional behaviour;
  - iii. what decision (if any) should be made in relation to a student's Fitness to Practise.
- 16.2 The University is able to make the following decisions in relation to Fitness to Practise cases:
- 16.3 That the student **is** Fit to Practise and is:
  - i. permitted to continue with the programme without further action;
  - ii. permitted to continue with the programme subject to conditions and requirements as defined/required by the Case Review Panel;
  - iii. permitted to continue with the programme but required to repeat a specific part of parts of the programme as defined by the Case Review Panel;
  - iv. permitted to continue with the programme but that a formal warning be placed on the student's record;
  - v. subject to any other action considered appropriate by the Case Review Panel to enable the student's successful completion of the remainder of the programme.
- 16.4 That the student **is not** Fit to Practise and:
  - i. is required to suspend his or her studies for a specified period of time, following which the Case Review Panel will review the conditions set and decide whether to re-admit the student to the programme;
  - ii. the student's studies on a programme leading to a professional qualification be terminated, but recommend that the student may seek advice to be admitted to an alternative programme within the University;
  - iii. the student's studies be terminated and the student to exit the University with an interim award, which may or may not satisfy professional requirements;
  - iv. the student's studies be terminated and the student be required to withdraw from the University without an award;

- v. exceptionally, recommend that an award already made is withdrawn.

All decisions made under 16.3.ii-iv and 16.4 will be recorded on the student's record.

16.5 Although, in considering the outcome of Fitness to Practise procedures, a student's particular circumstances (e.g. mitigating circumstances and declared disabilities) as well as unintended impacts (e.g. the student's statutory financial support, visa status) will be taken into account, upholding Fitness to Practise standards is paramount for the University.

16.6 A student's previous record in relation to Fitness to Practise concerns will be taken into account in relation to the outcome.

16.7 The decision to terminate the student's studies at the University permanently will need to be approved by a Deputy Vice-Chancellor, with notification given to the Chair and Clerk of Council.

## 17 Reconsideration of the same breach of professional conduct

17.1 The University may reconsider a Fitness to Practice concern if new evidence emerges which, for good reason, could not have been obtained by the University at the time.

17.2 In deciding whether it is appropriate to consider such a concern for the second time, the University will consider:

- i. Whether the outcome of the first process has been called into question, and if so why;
- ii. The length of time that has elapsed and the effect on this on the reliability of any evidence to be considered;
- iii. The severity of the alleged breach of professional conduct;
- iv. The impact on the student of undergoing a second Fitness to Practise procedure;
- v. Whether leaving the matter unaddressed would impact on matters of Fitness to Practise or on any obligations the University has to professional or regulatory bodies in respect of a particular student's character.

## 18 Appeal

18.1 The student may raise an appeal against a fitness to practise outcome. Any appeal needs to be submitted in writing to the office of the Associate Pro Vice-Chancellor (Student Experience) and needs to be received on the appropriate appeal form, normally within 15 clear working days of the date of the letter notifying them of the outcome of their case.

18.2 The student is also able to raise a complaint under the student complaints procedure if they have concerns about how the matter was handled or the outcome. Such a complaint normally need to be made within 15 clear working days of the date of the meeting notifying them of the outcome of their case.

18.3 Students registered at a collaborative partnership or a Constituent College of the University may submit an appeal in writing to the office of the Associate Pro Vice-Chancellor (Student Experience) in relation to an institutional level outcome. The



appeal normally needs to be made within 15 clear working days of the institutional letter notifying them of the outcome of their case.

- 18.4 A witness cannot make an appeal against the outcome of the Fitness to Practise process. Witnesses may be able to make a complaint under the student complaints procedure.
- 18.5 Appeals received after the above deadline will be deemed to be out of time and may not be considered unless there is independent evidence to show compelling reason as to why the appeal was not received in a timely manner. The University will not normally consider any appeal submitted more than 12 months after the receipt of outcome.
- 18.6 The Office of the Associate Pro Vice-Chancellor (Student Experience) will acknowledge receipt of the appeal normally within 5 clear working days. If the appeal has not been acknowledged within 5 clear working days the student should contact the office of the Associate Pro Vice-Chancellor (Student Experience) to ensure that the was actually received.
- 18.7 The request for the right to appeal will only be granted if there is evidence of the following:
- irregularities in the conduct of the Fitness to Practise Procedure, which are of such a nature as to cause reasonable doubt whether the same decision would have been reached had they not occurred;
  - there is bias or reasonable perception of bias during the procedure;
  - the existence of new material evidence and compelling reasons why this evidence was not provided earlier in the Fitness to Practise process;
  - the outcome was not reasonable given the circumstances of the case;
  - the outcome was disproportionate or not permitted under the procedures.
- 18.8 An appeal will be considered by an appropriate senior officer from the University, not previously involved in the matter.
- 18.9 The student raising the appeal will be informed of the remit of the appeal and its scope and purpose.
- 18.10 No appeal hearing will be held as part of the appeal process. A hearing can only be held if the matter has been referred back to the formal stage for reconsideration.
- 18.11 The Officer reviewing the appeal will be able to:
- uphold the original outcome;
  - refer the matter back to the formal stage for reconsideration;
  - offer a modified outcome.
- 18.12 The outcome of the appeal will be confirmed in writing by the office of the Associate Pro Vice-Chancellor (Student Experience), normally within 20 clear working days of the appeal being received. The appeal decision is final and is the final possible stage of the University's internal processes.
- 18.13 In all cases (whether an appeal is upheld, the appeal is not upheld, or is not permitted to proceed under the grounds of appeal), a Completion of Procedures letter will be sent to the student within 28 days. In this letter, the student will be advised via a Completion of Procedures letter that a complaint may be made to the Office of the Independent Adjudicator (OIA) for Higher Education. Complaints to the

Office of the Independent Adjudicator (OIA) for Higher Education must be made within 12 months of the date of the Completion of Procedures letter. Full details of the procedure will be available from the OIA website: [www.oiahe.org.uk](http://www.oiahe.org.uk).

## 19 Confidentiality parameters

- 19.1 The University will be mindful of its obligations under relevant data protection regulations and the Equality Act 2010 in relation to any information shared about fitness to practise cases.
- 19.2 All parties will be reminded of the confidentiality associated with the procedures outlined above. Information associated with the case will be disclosed to as few people as possible.
- 19.3 Witnesses will not normally be able to give evidence confidentially. Where witnesses indicate that they would like to give their information confidentially, normally their evidence will not be relied on.

## 20 Standard time-lines

- 20.1 Throughout the policy, standard time-lines are mentioned for key stages of the process. The University will, wherever possible, seek to adhere to the time limits outlined within these procedures, but in cases where there are special circumstances which require variance from specified time limits, the students and any other relevant parties will be advised of the reasons for this. Processes may need to be suspended.

Key stage	Standard time-line
Invitation to meetings	Notice provided not less than 2 clear working days
Completion of the initial risk assessment process	Within 5 clear working days of the start of the risk assessment process
Submission of appeal against precautionary measures	Within 5 clear working days of the date issued on the notice of the precautionary measures
Completion of investigative process	Within 30 clear working days
Notification of the outcomes of non-complex Fitness to Practise concerns	Within 5 clear working days of the receipt of the investigative findings
Proceed to panel notice for complex Fitness to Practise concerns	Within 5 clear working days of the receipt of the investigative findings
Information about the format of the panel, membership, date and venue	Notice provided not less than 10 clear working days in advance of the meeting

Key stage	Standard time-line
Circulation of any documentation associated with the meeting of the panel	Notice provided not less than 5 clear working days in advance of the meeting
Notification in writing of the outcome of a panel meeting	Within 5 clear working days
Completion of the formal process	Within 60 clear working days of the allegation made against the student
Appeal against an outcome	Within 15 clear working days of the date of the notification of the outcome
Notification of the receipt of the appeal	Within 5 clear working days
Notification of the outcome of an appeal	Within 20 clear working days of the appeal being received

## 21 Monitoring

- 21.1 A Student-facing Policies overview report will be submitted annually to Senate by the Associate Pro Vice-Chancellor (Student Experience). This report will also monitor the effectiveness of the suite of policies.

## 22 Resource implications

Implication	Detail
Finance	<i>Training for all University members of staff involved in Fitness to Practise procedures (e.g. Case Officers, Chairs of Case Review Panels, staff providing support,, senior members of staff, minute takers)</i>
Staff	<i>No additional resource anticipated.</i>
Assets	<i>There are no identified asset costs.</i>
Partners	<i>See sections 3.3 and 18.3</i>
Timescales	<i>Once approved the policy will be implemented immediately. The policy will be regularly monitored to ensure ongoing compliance with relevant legislation.</i>
Leadership	<i>APVC (Student Experience)</i>

## 23 Impact Assessment

Implication	Impact considered (Yes/No)	Impact Identified
Legal		<p><i>The policy identifies action taken if the offence is also subject to criminal proceedings / legal action.</i></p> <p><i>The policy conforms with:</i></p> <ul style="list-style-type: none"> <li>○ <i>Contract and consumer law</i></li> <li>○ <i>Negligence (duty of care)</i></li> <li>○ <i>The Human Rights Act 1998</i></li> <li>○ <i>The Equality Act 2010</i></li> <li>○ <i>Health and Safety at Work Act 1974</i></li> <li>○ <i>Natural Justice (fairness)</i></li> <li>○ <i>Data Protection Act 2018 (and GDPR)</i></li> </ul>
Contribution to the Strategic Plan		<i>The policy aligns with the values expressed in the Strategic Plan.</i>
Risk analysis		<i>Policy compliance will mitigate the risk of students entering professions for which they are not Fit to Practise. It also mitigates against complaints to the OIA and ICO.</i>
Equality		<i>The policy will ensure adherence to provisions of the Equality Act.</i>
Welsh language		<i>The policy aligns with principles expressed by the Welsh Language Act.</i>
Environmental and sustainability		<i>None identified.</i>
Communication / Media / Marketing		<i>The policy will be made available to staff and students via MyDay.</i>

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### Document version control

Version No.	Reason for change	Author	Date of Change
0.1	Draft policy	MP	15.12.16
0.2	Add detail to the scope of the policy.	CG	17.10.17
0.3	Annual review of the policy	MP	04.02.19