



Queen Margaret University

EDINBURGH

Fitness to Practise Policy

1 Principles

- 1.1 The University has a duty to the public to use its best endeavours to ensure that students and graduates of its professional healthcare programmes are fit to practise.
- 1.2 In the context of this policy, fitness to practice has been interpreted to mean that a person has the skills, knowledge, character and health to undertake their professional role safely and effectively.
- 1.3 The University seeks to promote entry to its healthcare programmes to as wide a range of individuals as possible, in so far as consistent with the above principle.
- 1.4 The University will not discriminate on the grounds of health or of disability where it can be demonstrated that an applicant or student undertaking a healthcare programme is capable of practising safely and effectively without supervision.
- 1.5 The University recognises that individuals in an early stage of their healthcare career need to be supported to develop a full understanding of the standards of professional conduct, performance and ethics that apply to the health profession which they are seeking to register. Fitness to Practise procedures should provide for support to students to enable them to learn from mistakes, but must also identify those who give cause for concern.
- 1.6 Cases will be treated on an individual basis, and with due consideration for fairness and equity.
- 1.7 The University will comply with its statutory duties in relation to Protection of Children and Vulnerable Adults, Rehabilitation of Offenders and Single Equality Legislation.
- 1.8 References within these regulations to any University officer shall include his or her properly appointed nominee.

2 Procedures for considering Fitness to Practise

- 2.1 The University will seek information about character, health and disability prior to admitting students. Clear information about this will be published in the prospectus.
- 2.2 In seeking information on character, the University will consider information provided in the character reference and will also seek information about criminal conviction or caution at the point of application.
- 2.3 All students of the University are required to declare whether or not they have a conviction or caution as part of the annual student matriculation process. Additionally, healthcare programmes may require students to self-certify annually their continuing fitness to practise.
- 2.4 Wherever possible, issues relating to fitness to practise will be dealt with as part of the University's standard procedures, or at the programme level. However, where a judgement is made that such consideration is not appropriate, there is provision for referral to the Fitness to Practise Panel. The Panel will be convened on the advice of the University Secretary. The secretary to the panel will be appointed by the University Secretary.
- 2.5 The Panel will consider cases relating to fitness to practise where a student or applicant's fitness to practise may be affected due to factors, including, but not limited to:
 - A criminal conviction that is outwith the provisions of the Rehabilitation of Offenders Act
 - Allegations of unprofessional or unethical conduct including conduct outwith the University
 - A declared disability
 - A health condition with the potential to affect fitness to practise
- 2.6 The Panel will have delegated authority to consider, and come to a judgement on:
 - the admission of students with criminal convictions, disabilities or health conditions that might affect fitness to practise;
 - continued progress of students for whom a criminal conviction is disclosed during the course of their programme;
 - continued progress of students who acquire a disability or potentially chronic health condition during the course of their programme;
 - continued progress of students who are found to have acted unprofessionally or unethically during the course of their programme.

The Panel may also, as a result of its operation, identify and remit particular issues for discussion and/or review by the Student Experience Committee or School Academic Board as appropriate.
- 2.7 Only suitably trained people will act as Panellists. A pool of potential Panellists will be maintained and regular training arranged.

- 2.8 Membership of the Panel will be in line with professional body guidance and will include at least one person from the applicant or student's intended registered profession.
- 2.9 Records of the Panel's proceedings will be retained by the University Secretary and processed in line with Data Protection legislation.

3 Consideration of Fitness to Practise at the stage of admitting an applicant to a healthcare related programme

Applicants declaring a disability

- 3.1 The application will first be considered on its academic merits, in line with the University's Admissions regulations.
- 3.2 Where applicants meet the academic criteria, staff of the Admissions department will discuss with the Admissions Tutor whether the applicant's support needs can be met.
- 3.3 If additional support is identified as being likely to be required, the Admissions Tutor will discuss the application with the Academic Disabled Students Co-ordinator and the Disability Service.
- 3.4 If there is any concern that the applicant's support needs cannot be met, this must be discussed with the applicant. In the majority of cases, it is expected that dialogue with the student will establish what adjustments can or cannot be made.
- 3.5 More difficult cases will be referred to the Dean of School who should consult the University Secretary. The University Secretary will decide whether to refer the matter to the Fitness to Practise Panel.

Criminal conviction or caution

- 3.6 Where an applicant has declared a criminal conviction or caution, staff in the Admissions department will ask the applicant for further details about the conviction/caution and forward these to the Head of Admissions and Recruitment.
- 3.7 The Head of Admissions and Recruitment will consult with the University Secretary to assess whether the conviction is one that would affect the applicant's fitness to practise as defined by the regulating body. If the conviction is judged to have the potential to affect the applicant's suitability for registration as set out in the professional body's Code of Conduct or Code of Ethics, the University Secretary and Head of Admissions and Recruitment will discuss the matter with the Head of Division and Dean of School. Following the outcome of that discussion the University Secretary will decide whether to convene a Fitness to Practise Panel. Written records of the reasons for decisions will be retained.
- 3.8 Where a caution or conviction is revealed through the Disclosure Scotland process or the PVG Scheme, the counter-signatory will consult the Head of Admissions and Recruitment, who will consult in line with provisions of paragraph 3.7 above. The University Secretary will judge whether the matter is referred to a Fitness to Practise Panel.

3.9 In considering the matter, the Panel may consider:

- The number and nature of offences or misconduct
- The seriousness of the offence or misconduct
- When the offences or misconduct occurred
- Any information provided by the applicant in mitigation
- The applicant's character and conduct since the offence occurred.

3.10 The Health and Care Professions Council ("HCPC") and the Nursing and Midwifery Council ("NMC") produce standards of conduct, performance and ethics which provide information on behaviour of applicants and students that is likely to affect their admittance to the profession concerned as well as standards of proficiency for these professions. The following, while not an exhaustive list, provides guidance on the type of behaviour that is likely to lead to an applicant or student being rejected or required to withdraw from a programme:

- Violence
- Abuse
- Sexual misconduct
- Supplying drugs illegally
- Child pornography
- Offences involving dishonesty
- Offences that carried a prison sentence

Decision not to admit

3.9 In line with the principles and procedures set out above, a range of decisions may be taken in relation to admitting a candidate to a healthcare programme of the University, namely:

- Admit the applicant
- Admit the applicant, subject to provision of specified adjustments and / or support or conditions
- Defer entry for one year (where this would provide additional information relevant to the decision making process)
- Not admit the applicant

3.10 An individual who has been the subject of a decision not to admit for reasons of fitness to practise may appeal that decision.

3.11 Should an individual be admitted subject to conditions, the individual must comply with those conditions. Should the student be in breach of those conditions at any point during their academic career, the student will be referred back to a Fitness to Practise Panel immediately.

4 Referral of issues relating to conduct on a programme of study

4.1 All students of the University are subject to the jurisdiction of the Principal in respect of their studies and their conduct. It is a condition of entry to the University that each student shall conform to the published rules and regulations.

- 4.2 Students on healthcare programmes should be aware that their conduct outside the clinical environment, including their private lives, may have an impact on their fitness to practise, as set out in the requirements of the professional body governing their programme of study. Such requirements are designed to ensure that their behaviour justifies the trust that patients and the public place in their profession.
- 4.3 A student may be referred to the University's Fitness to Practise procedure through a number of routes which include by a Programme Committee, by a Disciplinary Committee or directly following a complaint to the University Secretary. Should a student be on placement or just about to go on placement when a matter is raised under this Section of the Fitness to Practise proceedings, the Head of Division may prevent or remove the student from placement with immediate effect if deemed appropriate.
- 4.4 Where it is judged that the matter does not fall under the terms of the Regulations governing Discipline, but nevertheless constitutes a concern in terms of professional practice, the Programme Leader will be informed. Where possible allegations in this category will be dealt with by the Programme Leader.
- 4.5 Where a Programme Committee has persistent concerns about a student's conduct which have not been satisfactorily resolved at local level by the Programme Leader, the Programme Leader may ask the University Secretary to convene a Fitness to Practise Panel.
- 4.6 A referral or an allegation of concern about conduct must be made in writing, signed by the complainant and submitted to the University Secretary.
- 4.7 Anonymous allegations will not normally be considered. In considering the allegation, the University Secretary may withhold the identity of the individual making the allegation if maintenance of confidentiality is considered appropriate.
- 4.8 Where the conduct that is the subject of the complaint would constitute a breach of the disciplinary code, the University Secretary will refer the allegation to the Principal. The Principal may dismiss the allegation immediately if he or she believes that there is no case for the student to answer, or that it is for some other reason appropriate to do so.
- 4.9 If the allegation is not dismissed, and the offence does not lead the Principal to suspend or exclude the student under the provisions outlined in section 4 of the University's Regulations governing Discipline, the matter will be referred to the Dean of School. The Dean of School will consult with the University Secretary on whether or not the matter should be dealt with summarily or referred to a Disciplinary Committee or referred directly to a Fitness to Practise Panel.
- 4.10 If the finding of the disciplinary procedure, either summary or Panel, is that the student has breached expected standards of conduct, including professional conduct, then the matter will be referred to a Fitness to Practise Panel. That will include those cases where it has been judged that there are mitigating factors, such as a diagnosed health condition.

- 4.11 In those cases where the conduct reported as giving rise to concern is linked to a mental health condition, the case will normally be referred to the Fitness to Practise Panel as a health matter.
- 4.12 Where a matter has been referred to a Fitness to Practise Panel, the Panel will be constituted as set out in Section 2 above. The proceedings of the Panel will be governed by the procedures set out in Section 6 of this procedure.
- 4.13 Legal representation will not be permitted at the Panel hearing.
- 4.14 The standard of proof applied in considering the case will be the civil standard of proof, ie the balance of probabilities.
- 4.15 A Fitness to Practise Panel has delegated authority to reach the following decisions, ie that:
- i) The student continues on the programme
 - ii) The student continues on the programme but is cautioned, meaning that if any further fitness to practise issues arise in the following twelve months, the student will be dealt with for both matters
 - iii) The student continues on the programme subject to fulfilment of certain conditions as specified by the Panel (which conditions can include the requirement to attend specified courses or counselling if deemed appropriate)
 - iv) The student is required to suspend study to allow time for medical investigations (for cases where unacceptable behaviour is linked to a mental health condition)
 - v) The student is required to suspend study for a period up to twelve months
 - vi) The student is advised to transfer to an alternative programme
 - vii) The student is asked to exit with an alternative award which does not permit the student to register with a regulatory body
 - viii) The student is required to withdraw
- 4.16 Should the student not comply with any conditions specified under Section 4.15(iii) above, a further Fitness to Practise Panel may be convened immediately to review the case and impose any further conditions or reach a different decision as the Panel deems necessary.

5 Issues relating to health and physical ability on a programme of study

- 5.1 In the context of this policy statement, the requirement for an individual to be in good health does not mean that they do not have a disability or health condition. Many disabled people and those with long term health conditions are able to practice safely with or without adjustments to support their professional practice.
- 5.2 It is recognised too that a disability may emerge after admission to a programme, that an existing health condition may worsen or that a student on a programme may acquire a disability.
- 5.3 In considering whether or not a disability has the potential to affect a student's fitness to practise, the Programme Leader should first discuss the student's individual needs with the student and the Academic Disabled Student Co-ordinator to explore what extra support may be required from both the

University and/or placement providers. Students with suspected disabilities and/or specific learning difficulties will be advised to contact Student Services to arrange to meet the Disability Advisor for further assessment, for example by an external agency e.g. Royal National Institute for the Blind or an Educational Psychologist.

- 5.4 Where there is doubt about whether effective support can be provided by both the University and/or the placement provider, the matter will be discussed by the Programme Committee under Reserved Business. The Programme Committee may refer the case to the Fitness to Practise Panel, via the University Secretary.
- 5.5 Health conditions may develop that affect fitness to practise. Short term conditions will be dealt with by the Programme Leader through the normal extenuating circumstances procedures. Where a student has missed periods of placement due to ill-health, the Programme Leader will discuss a revised programme of study with the student to allow him or her to catch up on missed work. In some cases, it may be necessary to defer study for up to a year.
- 5.6 It is essential that students notify staff immediately should they contract a communicable disease. Normally, arrangements will be put in place in line with NHS, NMC or HCPC protocols. This will be discussed between the Programme Leader, student and placement supervisor.
- 5.7 Mental health conditions may be short or long term. The primary responsibility of the University is to support the student to ensure the best chance of recovery. However, a decision may be taken that it is advisable to postpone periods of placement until the student's condition has stabilised.
- 5.8 While it is expected that the Programme Leader will attempt to support the student informally if possible, if it is judged that the student may not be safe to go on placement; or if a placement supervisor raises such a concern during placement, a referral will be made to the Fitness to Practise Panel.
- 5.9 In the interests of a student's and/or patient safety, the University may act to suspend a student temporarily pending the outcome of Fitness to Practise proceedings in order to remove the student from placement or prevent him or her from starting a placement.
- 5.10 If the Student Counsellor becomes aware that a student's medical condition may pose a risk to patient safety the Programme Leader should be informed. The terms of the University's Counselling service client confidentiality agreement will state clearly that this is a possibility.
- 5.11 In all the above cases, the University may require independent medical reports and / or occupational health assessments. Students may be temporarily suspended while reports are sought.
- 5.13 A Fitness to Practise Panel will not normally be convened until reports are available. However, where a student refuses to attend an occupational health assessment, the Panel may proceed on the basis that the student has refused to provide evidence of his or her fitness to practise.
- 5.14 The following decisions are possible:

- i) The student continues on the programme
- ii) The student continues on the programme with suitable adjustments made to accommodate the student's needs
- iii) The student continues on the programme under supervision with a time period set for review
- iv) The student is required to suspend study to allow time for a health condition to improve or to allow time for suitable arrangements to be put in place to accommodate the student's needs
- v) The student is advised to transfer to an alternative programme
- vi) The student is asked to exit with an alternative award which does not permit the student to register with a regulatory body
- vii) The student is required to withdraw

6 Fitness to Practise Panel

- 6.1 A Fitness to Practise Panel may be convened to consider issues of health or character concerning an applicant to, or a student studying on, a healthcare programme leading to professional registration.
- 6.2 The University Secretary will appoint the members of the Fitness to Practise Panel, and invite one of them to act as Convener. The University Secretary will appoint a secretary to the Panel and will arrange for a note of the proceedings to be taken. The Panel may seek advice from a qualified lawyer.
- 6.3 The Panel will include at least one person from the profession to which the applicant or student is seeking professional registration.
- 6.4 Normally, a Panel would include the following:
- One senior academic member of staff (convener)
 - One NMC or HCPC representative
 - One non-academic member (patient or lay representative)
 - Programme Leader/designated signatory for the professional outcome or a suitable substitute suggested by the Programme Leader
- 6.5 The Panel will rely only on evidence presented at the hearing. If the hearing concerns a student who has previously been the subject of a disciplinary investigation in relation to the same matter, the confirmed report of that investigation shall be provided as evidence.
- 6.6 The standard of proof will be the civil standard, ie the balance of probabilities. If the members of the Panel cannot agree, the verdict of the Panel will be that of the majority of its members. In cases where the Panel is split evenly, the Convener shall have the casting vote.
- 6.7 The Panel may ask for additional enquiries to be undertaken where it considers that this will aid its consideration of the case.
- 6.8 If two or more students are involved in related misconduct, the Panel may at its discretion deal with their cases together.
- 6.9 The evidence presented at the hearing will normally be written evidence which will be provided to the Panel no fewer than 7 days before the Panel is due to meet. The person who is the subject of the hearing will be advised of the date

of the hearing no fewer than 14 days prior to the scheduled date of the hearing. She/he will be provided with copies of the documents being provided to the Panel, and will be invited to provide the Panel with any further information that he/she would wish the Panel to consider.

- 6.10 The Panel will refuse to admit evidence that is in its opinion irrelevant to the matter under discussion.
- 6.11 The Panel shall have power to adjourn a hearing to another date, as it thinks fit.
- 6.12 At the termination of the proceedings, the Convener of the Panel will write a short report, summarising the discussion and setting out the Panel's decision and reasoning. A copy of the report will be sent to the applicant/student and to the Principal.
- 6.13 The Principal has the power to suspend the activity of the Fitness to Practise Panel at any time should he or she believe it appropriate to do so.

7 Right of appeal

- 7.1 An individual may appeal against the decision of a Fitness to Practise Panel.
- 7.2 An appeal must be made to the University Secretary within twenty-eight days of the conclusion of the proceedings. The appellant must set out in writing the grounds on which the appeal is based.
- 7.3 There will be no entitlement to a rehearing of the case, which will be allowed only in exceptional circumstances.
- 7.4 The appellant must submit the appeal in writing to the Principal, who will judge whether or not a prima facie case exists on the basis that:
 - there has been demonstrably an irregularity in the Fitness to Practise procedure;
 - evidence has become available that it was not reasonable to present during the original hearing.
- 7.5 In the event that a re-hearing is judged appropriate, an appeal panel will be convened.
- 7.6 The University Secretary shall appoint an appeal panel and the appeal panel shall consist of members drawn from the following:-
 - the Deputy Principal (to act as Convener)
 - the Dean of School
 - a non-academic member
 - a senior NMC or HCPC representative

The appeal panel shall conduct its proceedings according to the principles of natural justice in that it will seek to act fairly, no person may be a judge in his or her own case and the appellant shall have access to all the evidence used by the panel in reaching its decision.

- 7.7 The appellant shall have the right to appear before the appeal panel and to be accompanied by one other person of his or her choice. Representation external to the University will not be permitted in the context of this procedure.
- 7.8 The Convenor of the Fitness to Practise Panel concerned with the case shall be invited, prior to the meeting, to submit to the appeal panel comments relevant to the case under discussion and may be invited to attend part or all of the meeting of the appeal panel at which the case is being considered.
- 7.9 Any person called to give evidence to the appeal panel will be given at least 72 hours' notice of the time and place of the hearing. Copies of written submissions will also be made available to all parties prior to the hearing.
- 7.10 In the event that the appellant is unable to attend the appeal panel due to illness, the meeting will be rescheduled.
- 7.11 The appeal panel shall meet, normally within one calendar month (excluding University vacations) of the referral from the Principal, and communicate its conclusions to appellant and the subject area concerned within one calendar month of its being convened. The University Secretary will keep all parties informed of progress and will advise of any necessary extension of the timescale, for example, if an adjournment in the proceedings is necessary.
- 7.12 The appeal panel hearing the appeal may overturn the finding of the original Fitness to Practise Panel. In particular, a finding may be overturned in the light of new evidence; or where it is found that the original hearing was not conducted fairly; or where the finding was unreasonable in the light of the findings of fact. The appeal panel may impose any additional sanction they deem necessary.
- 7.13 The decision of the appeal panel shall be final within the University.

8 Independent review

- 8.1 The University's internal procedures having been exhausted, an individual may seek review of his/her case by an independent person, the Scottish Public Services Ombudsman [SPSO].
- 8.2 The Ombudsman is independent and her staff will advise whether or not the complaint is one that they can investigate. Normally the student will have to tell the Ombudsman about his/her complaint within 12 months of first knowing about the problem about which they are complaining, although the Ombudsman may look at complaints outside this limit if she thinks there is good reason to do so.
- 8.3 There are some restrictions on what the Ombudsman can investigate. If the complaint is appropriate to her office and is investigated, the Ombudsman's staff will send details of how this will be done.
- 8.4 The complaint should be submitted in writing to the Ombudsman, and should include any relevant documents including correspondence with the University and the University's response to the complaint. This can be sent to the Ombudsman without cost at the freepost address given below. A student may discuss the complaint with an Investigator at the SPSO before deciding to submit.

- 8.5 The Scottish Public Services Ombudsman has an online complaint form accessible through the website although papers in support of the complaint would still have to be supplied to the Ombudsman by post or other means. The Scottish Public Services Ombudsman can also supply paper complaint forms direct to complainants.
- 8.6 Further information may be accessed through the Scottish Public Services Ombudsman website or by calling her office for advice. Contact details are:

Scottish Public Services Ombudsman
4 Melville Street, Edinburgh, EH3 7NS

Freepost address
Scottish Public Services Ombudsman
Freepost EH641, Edinburgh, EH3 0BR

Phone 0800 377 7330
Fax 0800 377 7331
website www.scottishombudsman.org.uk
e-mail enquiries to ask@spsso.org.uk
Text: 0790 049 4372