

10. FITNESS TO PRACTISE PROCEDURE

This section of the Student Regulations Framework applies to all taught programmes of Plymouth Marjon University, whether undergraduate or postgraduate, to all research degree students, and to all apprentices enrolled on the University's apprenticeship programmes, who are classified as 'students' and referred to accordingly throughout this Procedure.

10.1 Introduction

1. Plymouth Marjon University offers a number of professionally-accredited programmes (as indicated in the relevant programme specifications). These programmes are practice-centred and are directed towards the achievement of professional competence. In such programmes, academic success alone may not meet all of the professional requirements, for example, these might include ethical, moral or behavioural matters and, in some situations, the impact of certain physical and mental health conditions.
2. Upon graduation, students must be able to contribute effectively to their chosen profession and operate as competent professionals. This fitness to practise procedure aims to ensure that students are fit to practise whilst also helping to ensure user, client or pupil safety and public trust in the relevant profession.
3. Professionally-accredited programmes must also comply with the regulations and codes of professional conduct of their relevant controlling bodies, including the Department for Education's *Teachers' Standards* and those set by organisations known in the UK as Health and Social Care Regulators. The application of the procedures will be informed by any relevant regulator-specific guidance.

4. In addition, students may undertake placement or work-based learning activities on any programme offered by the University, irrespective of its professional accreditation status. Whilst these programmes are not practice-centred or directed towards the achievement of professional competence *per se*, the University expects all students who are working in a professional setting to conduct themselves in an appropriately professional manner at all times. These procedures may be applicable to all students in respect of any module in which placement or work-based learning activities occur. However, their principal application is to professionally-accredited programmes.
5. These procedures are separate from the Student Misconduct Procedures (see Section 15 of this Framework) and will only be invoked in cases where a student's behaviour is giving cause for concern with regard to their fitness to practise. In addition, they will not apply when a decision to remove a student from a professionally-accredited programme has been made by an Assessment Board. This is because such a decision can then be challenged via the Academic Appeals procedure, which would be expected to take into account the same evidence base that would have been considered under these procedures. It may be appropriate, therefore, to defer any related Assessment Board decision until these procedures are complete.
6. If a student on a professionally-accredited programme is giving cause for concern, the Support to Continue in Study procedures might also need to be invoked. In such cases, the Support to Continue in Study procedures will apply to all aspects of study that do not involve placement opportunities or similar contacts with external agencies. However, if the application of Support to Continue in Study procedures results in the suspension of a student from their programme of study, this will apply to a student's entire programme of study including any placements. In such cases, the suspension of the student will lead to the automatic suspension of any Fitness to Practise procedures that are ongoing.

7. Where students are already in the workplace and attending a programme directly relating to their professional practise, either with or without the support of their employer, the University may contact employers where it has identified serious concerns about potential fitness to practise. This applies, in particular, with regard to the safety of users, clients or pupils, other members of the employer/placement provider and the student.
8. The University accepts that different standards of behaviour will normally be required of students at different stages of a programme. It recognises professional training as a place where exploration takes place and accepts that mistakes can, in fact, be made and addressed. However, it is also constantly vigilant in ensuring that all students on professionally-accredited programmes are fit to practise in the relevant professional area. This involves dealing promptly and appropriately with all cases in which fitness to practise is in doubt.
9. These procedures are conducted on the basis of 'the balance of probabilities' - rather than the criteria of 'beyond reasonable doubt' which applies in criminal cases - as they are civil, rather than criminal, procedures.
10. 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 the fitness to practise concerns and the nature of the complaint, and how they relate to one another.
11. Students involved in the fitness to practise procedure are encouraged to make use of support through the University's Student Wellbeing and Support team, the Marjon Student Union, or other sources as appropriate. If students have any queries regarding the procedure or outcomes, they should contact the Academic Standards Officer.

10.2 Acceptance on Programmes

1. Before commencing a professionally-accredited programme, each student must undergo a Disclosure and Barring Service (DBS) check. If a student would not fulfil the requirements of the relevant profession in this respect s/he would not be admitted to study for that profession or to practise it. The purpose of this DBS screening is to protect the safety of children and/or vulnerable adults in the student's care. This need to protect also applies to students throughout their programme and to professionals in practise. It is the responsibility of the student, alongside the University, to ensure that the DBS has been completed prior to commencing the programme of study. It is the responsibility of the student to inform the University of any criminal conviction, caution, warning or reprimand received after they start their programme in accordance with Section 2 of this Framework.
2. In addition, trainee teachers must have the health and physical capacity to teach, as set out in the Education (Health Standards) (England) Regulations (2003). The University will ensure that only those with the capacity to teach remain on the programme, using the guidance set out in Section 10.4 of this Framework. Additional checks, as currently required by the Department for Education, may also be applied as appropriate.
3. In addition, the University will ensure that all students admitted onto its health programmes are of good character and good health to ensure they can practise safely and effectively. As such, additional checks may be applied and declarations sought, as required by the relevant Health and Social Care Regulators.

10.3 Practice Placements

Practice in the care of users, clients or pupils is an essential part of professionally-accredited programmes. Students must be supervised by a named individual who holds effective and appropriate registration or other professional and academic qualifications as well as appropriate experience.

10.4 Professional Unsuitability

1. Sometimes, it becomes apparent that a student may not be suitable for the profession for which they are studying. The student, their tutors or a placement provider may be the first to notice this. Any student who has doubts about their suitability for the profession for which they are studying should discuss the situation informally with a tutor as soon as possible. Where a member of staff or placement provider feels that a student may be unsuitable, the matter should be reported to the relevant member of University staff responsible for supporting students during the placement period. They should then discuss matters informally with the student. In some cases, the issues of concern may be resolved by appropriate support and guidance. If the unsuitability is expected to be temporary, an interruption of study may be appropriate. If the matter cannot be resolved informally, or if there is a risk to user, client or pupil care, the formal procedure will need to be invoked.
2. Professional unsuitability can take various forms. The following are typical examples, although this is not an exhaustive list:
 - Ongoing lack of motivation or interest and/or non-participation in learning activities (e.g. direct care; engagement in small group/problem-based learning; portfolio development; practise placements; presentations; timetabled academic sessions; academic or pastoral tutorials; clinical skills sessions).
 - Ongoing unwillingness or inability to accept guidance about involvement in the programme/professional practise.

- Ongoing inability to make/evidence professional judgements over and above personal value considerations as appropriate.
- Inconsistent, unreliable and/or inappropriate behaviour in the clinical, teaching, coaching and/or learning context, including inappropriate appearance/failure to follow applicable dress codes, poor timekeeping/attendance and inappropriate/excessive use of personal digital devices such as mobile phones.
- Emotional and/or inter-personal problems that adversely affect the clinical, teaching, coaching and/or learning context.
- Behaviour that adversely affects the operation of the clinical, teaching, coaching and/or learning context, including a failure to maintain appropriate boundaries with users, clients or pupils and/or patient confidentiality.
- Negligent misuse of social media in a placement or work-based learning context (please see the University's [Social Media Policy](#) for further guidance).
- Physical and/or mental health conditions, where the relevant adjustments and appropriate support would not prevent the student or others being at risk and/or where there has been a failure to seek help or engage with appropriate services.
- Competence issues: these would normally relate to whether the student was able to practise competently and safely by the progression point in each year of the programme. However, they could also stem from a holistic assessment of the student's capability, at the end of the programme, after relevant adjustments and appropriate support had been offered / provided.
- An inability, in a healthcare context, to recognise the duty of candour that applies to users or clients when something has gone wrong with their treatment or care, or which has the potential to cause harm or distress.

- Health and safety breaches resulting from negligence, rather than malicious intent, on the part of the student.
- A failure to self-reflect, indicating a lack of insight on the student's part.
- Poor communication and/or language skills which affect the student's ability to practise.

10.5 Interim Measures

1. If there is evidence of a risk to user, client or pupil care at any point in these Procedures, the Programme Leader/Programme Area Leader should notify the Dean of School. The Dean of School may then authorise the immediate removal of a student from a current or prospective placement until this risk is no longer perceived to apply. Any such decision should be notified to Registry, via the University Secretary and Registrar, in writing.
2. Under the terms of the Disclosure and Barring Scheme (DBS), and where the student may have harmed a child or vulnerable adult, or put a child or vulnerable adult at risk of harm, there is a legal requirement to refer the student to the DBS. This action will be taken by Registry under the authority of the University Secretary and Registrar.
3. There could be times when it is considered that a referral should be made in the interests of safeguarding children or vulnerable adults even if the student has not been removed from regulated activity. This could include acting on advice of the police or a safeguarding professional, or in situations where there is insufficient evidence to dismiss or remove a person from working with vulnerable groups.
4. The DBS is required by law to consider any and all information sent to it from any source. This includes information sent where the legal referral conditions are not met. The DBS will use legal powers and barring processes to determine whether the person should be barred from working in regulated activity with children and / or vulnerable adults.

5. In addition some programmes (such as Initial Teacher Training) will have support mechanisms that are activated prior to these procedures. These are as outlined in the relevant Programme Handbooks.

10.6 Acceptable Behaviour

The University recognises that involvement in the fitness to practise procedure can be a stressful experience for students. However, it also has a duty to ensure the safety and well-being of its staff and, for example, will not accept communication that is abusive; offensive or defamatory; aggressive; threatening; coercive or intimidating and/or unreasonably persistent or demanding. Such behaviour, therefore, might constitute an instance of student misconduct (see Section 15 of this Framework).

10.7 Stage One Procedure – Programme Level

1. If professional unsuitability is alleged, the placement supervisor/mentor, personal tutor, Programme Leader/Programme Area Leader or other appropriate member of academic staff will discuss the issue with the student and advise them in writing of any concerns that they have about their conduct, with the prior agreement of the Dean of School. This would include any remaining concerns that have not been resolved informally. They will also supply the student with any relevant documents/reports that support these allegations and direct them to appropriate sources of independent support (such as the Student Union and Student Wellbeing and Support).

2. The Programme Leader/Programme Area Leader will convene and chair a meeting involving the student, their Personal Development Tutor and other appropriate members of academic staff. Where appropriate, the placement supervisor/mentor and a member of the institutional staff designated to support students during the placement period will also attend. At the meeting, the concerns and the student's progress will be discussed with a view to agreeing an action plan. The Programme Leader/Programme Area Leader will communicate the outcome of the meeting, and of any subsequent meeting held to review progress and/or to provide additional support, by letter to the student. This letter, which should normally be sent within five working days of the meeting and should be copied to the supervisor/mentor, Personal Development Tutor, Dean of School, the University Secretary and Registrar, Registry, the Student and Academic Administration Manager, the Academic Standards Officer and/or other appropriate members of academic staff.
3. The student's case will continue to be monitored, normally by the originator of the Stage One procedures, until all those involved agree that there is no continuing cause for concern. At this point, the Dean of School will write to the student to confirm that the procedures have come to an end, subject to their reactivation if this becomes appropriate. All parties who were sent a copy of the letter referred to in the previous paragraph should also be sent a copy of the letter. If, on the other hand, the Programme Leader/Programme Area Leader cannot recommend that the student is ready to return to professional practice, they may recommend a further period of removal from professional practice to the Dean of School, stating the reasons for their decision.

10.8 Stage Two Procedure - Investigation

1. If the matter is not resolved by this course of action - or if the matter is so serious that an immediate investigation is required - the Dean of School, on the advice of colleagues as appropriate, will initiate an investigation, to be held as soon as reasonably possible. The investigator will be a member of academic staff from the same School, normally on another professionally-accredited programme, who has had no involvement with the student. The Dean of School will inform the student that Stage Two has been initiated and invite them to an interview which will proceed in the presence of the investigator and at least one other member of the School.
2. The investigator will collate and present the evidence that will determine whether or not a student's fitness to practise is impaired. The investigator will take into account any relevant accrediting body criteria as notified to them by the Programme Leader/Programme Area Leader.
3. Following the investigatory interview with the student (at which the allegations and any evidence which supports them will be made clear to the student), the investigator may meet with others, e.g. institutional placement staff, placement supervisor/mentor, witnesses to events and relevant professional practitioners. The investigator shall examine the circumstances of the alleged unsuitability from all perspectives, including that of the student, and maintain records of the investigation including records of complaints, notes of meetings held, interviews and statements.
4. When the investigation is complete, subject to any deferral that might be required to obtain a medical report, the investigator will submit a report to the Dean of School. If the Dean of School considers, in the light of the investigator's report, that the student's behaviour is insufficiently serious or persistent to call their fitness to practise into question at the present time, they may determine the following courses of action:

- No further action.
 - To allow continued practise for a specified period, following which a further assessment will be made.
 - A formal warning to be placed on the student's record.
5. The resultant decision letter, which should normally be sent within five working days of the conclusion of the investigations, should be copied to the supervisor/mentor, Personal Development Tutor, Programme Leader/Programme Area Leader and/or other appropriate members of academic staff as well as the University Secretary and Registrar, Registry (in the case of a safeguarding incident) and the Academic Standards Officer. Any documents that have been explicitly taken into account in reaching a decision, where these have not been supplied by the student, should be supplied to the student at this point.

10.9 Stage Three Procedure – Fitness to Practise Panel

1. If the Dean of School considers, in the light of the investigator's report, that the student's behaviour is serious or persistent enough to call their fitness to practise in question, the case will be referred to a Fitness to Practise Panel. The investigator, however, will not serve on the Panel. The Fitness to Practise Panel will consider evidence presented by the investigator and the student, with a view to deciding whether the student's fitness to practise is impaired. Its decision will be taken with reference to the balance between user, client or pupil and public safety, the interests of the student and the need to maintain trust in the profession.

2. The Dean of School will refer the matter accordingly to the Academic Standards Officer by way of a report consisting of the investigator's report, the associated evidence and authorisation to proceed. On receiving such a report, the Academic Standards Officer or nominee will convene a Fitness to Practise Panel which shall comprise:

- An appropriately qualified and experienced senior member of staff, from the roster of Student Casework practitioners approved by Senate, who has had no involvement with the student and who teaches or has taught on a professionally-accredited programme.
- A second appropriately qualified and experienced senior member of staff, from the roster of Student Casework practitioners approved by Senate, who has had no involvement with the student.
- A member of the Executive Committee of the Student Union, normally the President or Deputy President, who also has no involvement with the student.

In addition, where practicable and at the request of the Chair, the Panel may include up to two external advisors with professional expertise of the relevant discipline. They may be academic colleagues at other institutions where the discipline is taught, professional colleagues with appropriate knowledge and experience, and/or service users in the case of health-related provision. The advisors may attend the Panel hearing in person or provide written commentary on the basis of the available evidence.

The Academic Standards Officer or nominee will act as Secretary to the Panel and proceedings may also be recorded, either electronically or by a minute taker, by mutual agreement. The Panel will not meet unless all members and the Secretary are present. The Academic Standards Officer or nominee will endeavour to ensure that the Panel includes at least one male and one female member.

3. The student shall be informed of the date of the meeting of the Panel not less than ten working days in advance. This deadline can only be reduced with the student's written consent. They will be invited to appear in person but, in exceptional circumstances, the Panel may also hear a case, at the discretion of the Chair advised by the Academic Standards Officer or nominee, in their absence. A Panel can be scheduled at any time in the calendar year, however, reasonable steps will be taken to schedule this at a point in the year when the student would normally be present in the University.
4. The student may be accompanied by a 'friend', who is permitted to attend to provide advice and support to the student and can be heard only with the agreement of both the student and the Chair. The name and status of any such 'friend' must normally be notified to the Academic Standards Officer or nominee no less than five working days in advance of the hearing. The University must grant its consent beforehand for the 'friend' to attend the meeting, but requests by students to attend a hearing in the company of an independent, knowledgeable and objective supporter from the relevant profession will normally be accepted. The student may also choose to call witnesses in their defence, including employees of the University where appropriate.
5. The Academic Standards Officer or nominee shall normally circulate the list of witnesses to be called, and all relevant documentation, to all parties not less than five working days before the meeting. Where this is not possible, the Academic Standards Officer or nominee will advise the student, who will have the right to request a postponement. Additional papers supplied by or on behalf of the student will be circulated thereafter with the proviso that, in exceptional circumstances, the Panel may decide to adjourn a hearing in order to secure a written response. The documentation will include any relevant accrediting body criteria and/or institutional guidance, as notified to the investigator by the Programme Leader/Programme Area Leader.
6. The refusal or failure of a student to attend will not invalidate the Panel's proceedings, provided that they have been given sufficient notice as set out above.

7. At the outset of the hearing, the Chair of the Panel shall identify the issues to be determined, the persons entitled to attend the hearing and the documents supplied to the Panel. They will also ask the student to confirm that they have understood the procedures and have no concerns with regard to procedure.
8. The Dean of School, or a nominee, will then outline the case against the student, before the Chair invites witnesses to give evidence. Members of the Panel may question witnesses directly and the student, or their 'friend', may question the Dean of School, or nominee, and the witnesses through the Chair.
9. The Chair shall then invite the student, or their 'friend', to respond. The Chair and other members of the Panel may question the student on the statement and/or the documentary evidence. Witnesses may question the student through the Chair.
10. At the conclusion, the Chair shall offer the student the opportunity of making a closing statement (which should not introduce new evidence), once the witnesses have left, before the Panel considers its decision in private. In all cases, the student shall have the right to make a final statement to the Panel before it considers its decision.
11. The possible outcomes of a fitness to practise hearing include the following:
 - Fitness to practise is not impaired and the student has no case to answer.
 - Whilst there is evidence of inappropriate conduct, fitness to practise is not currently impaired.
 - The student's fitness to practise is impaired and a sanction is appropriate.
12. The purpose of imposing a sanction is to protect users, clients or pupils and the public, to maintain trust in the profession and to ensure that students whose fitness to practise is impaired are dealt with effectively. Accordingly, if a sanction is imposed an appropriate rationale should be provided in the decision letter.

13. In order of severity, the sanctions available to the Panel include the following:
 - A formal warning to be placed on the student's record.
 - An undertaking on the part of the student, to be reviewed after an appropriate period of time.
 - Conditions on the student's continued participation in the programme.
 - Suspension from the programme.
 - Removal from the programme, with the opportunity of transfer to an appropriate stage of an alternative programme (if available) at an appropriate time.
14. The resultant decision letter will be drafted by the Academic Standards Officer or nominee for the approval of the Chair. It shall also constitute the official record of the hearing including, where this is applicable, the reasons for imposing a specific penalty or penalties and an explanation as to why a lesser penalty was unsuitable.
15. The letter will normally be sent to the student within ten working days of the hearing and within thirty-five working days of the commencement of the Fitness to Practise Procedure at Stage One. If this is not possible, exceptionally, the student will be kept informed.
16. Where a decision has been taken to suspend or remove a student from a programme, it will take immediate effect. A decision to remove a student from a programme will be referred to the University Secretary and Registrar for implementation.

17. If the University has a duty to inform the Independent Safeguarding Agency, the Department for Education, a designated Health and Social Care Regulator or any other Professional, Statutory or Regulatory Body of the outcome of any Fitness to Practise proceedings, the decision letter will set out the notification arrangements. These will vary according to the context - for example, there may be an external requirement for educational institutions to report fitness to practise cases as part of their annual reports, along with details of individual students who have been subject to fitness to practise procedures.
18. Where a student is not removed from a programme, their case will continue to be monitored, normally by the originator of the Stage One procedures, for the remainder of the academic year or until all those involved agree that there is no continuing cause for concern. At this point, the Dean of School will write to the student to confirm that the procedures have come to an end, subject to their reactivation if this becomes appropriate. All relevant parties should be sent a copy of the relevant communication.

10.10 Right of appeal

1. At all stages of the process, a student has the right of appeal against the decision and/or the penalty imposed on any or all of the following grounds:
 - that the procedures were not followed properly.
 - that the decision maker(s) reached an unreasonable decision.
 - that the student has new material evidence that they were unable, for valid reasons, to provide earlier in the process.
 - that there was bias or reasonable perception of bias during the procedure.
 - that the action the provider has decided to take is disproportionate, or not permitted under the procedures.

Any such appeal must be submitted in writing to the Academic Standards Officer or nominee within ten working days of the date of the letter communicating the decision.

2. The Academic Standards Officer or nominee will refer the appeal to an appropriately qualified and experienced senior member of staff, from the roster of Student Casework practitioners approved by Senate, who has had no involvement with the student. The appeal stage will normally be concluded within fifteen working days of the receipt of the appeal. If a delay is envisaged, the appellant will be notified in writing before the end of the fifteen working day period. If valid grounds to proceed with the appeal are not found, the University's Fitness to Practise Procedure will have been exhausted and the Academic Standards Officer or nominee will advise the student accordingly.
3. If, however, it is found that there may be additional evidence that could not reasonably have been provided to the original hearing, or procedural irregularities, the Academic Standards Officer or nominee will reconvene the original decision-making body with new membership of a similar status. This will always lead to an additional interview or hearing, under the procedures appropriate to the relevant Stage, which will not involve the participation of anyone involved in the original decision. This re-hearing will be final and there will be no further right of appeal thereafter. In all such cases, the appeal process may lead to the confirmation, reduction or quashing of any sanction originally imposed, but not to an increased sanction.
4. The student will be notified in writing of the decision, normally within five working days of the hearing, in accordance with the procedures appropriate at the relevant stage. The decision letter will confirm that the University's Fitness to Practise Procedure has been exhausted.

10.11 Office of the Independent Adjudicator for Higher Education

1. If an appellant remains dissatisfied after the appropriate internal processes have been exhausted, they can ask the University to issue a Completion of Procedures letter in order for the Office of the Independent Adjudicator for Higher Education (OIA) to review their appeal.
2. The University must issue a Completion of Procedures letter in order for the OIA to review an appeal. A Completion of Procedures letter will be issued automatically where valid grounds for re-hearing the appeal are not found at the review stage.
3. All requests for review must be made to the OIA within twelve months of the date of issue of a Completion of Procedures letter. For full details please contact <http://www.oiahe.org.uk>.

10.12 Annual Report

Each year, the Academic Standards Officer submits a report on student casework to Senate, detailing (anonymously) general matters or issues arising from recent Fitness to Practise cases. Additional reports are also submitted to the Finance and Resources Committee of the Board of Governors on a regular basis. Senate will forward recommendations to other relevant University committees so that broad concerns can be shared, and appropriate action taken.

10.13 Procedures at Partner Organisations

1. In accordance with the Good Practice Framework issued on behalf of the HE sector by the Office of the Independent Adjudicator and Plymouth Marjon University's Collaborative Provision Regulations and Procedures, all students registered for the University's awards have the ultimate right to complain to the University, irrespective of where they are studying. This right of complaint, however, is not absolute and is subject to the precise wording of the partnership agreement.
2. The partner organisation, accordingly, should ensure that clear information and guidance with regard to fitness to practise is made available to all students registered for the University's awards. This should include clear information about the sequence of processes involved and make clear the channels through which dissatisfied students can contact the University directly.
3. Once the internal procedures of the partner organisation have been fully exhausted, students who wish to take their case to the University for review should ask the Academic Standards Officer in writing if they are eligible to do so. Students may request a review of the decision on the following grounds only:
 - A review of the procedures followed at the formal stage.
 - A consideration of whether the outcome was reasonable in all the circumstances.
 - New material evidence which the student was unable, for valid reasons, to provide earlier in the process.

4. If a case is eligible for review, the Academic Standards Officer or nominee will refer the challenge to an appropriately qualified and experienced senior member of staff, from the roster of Student Casework practitioners approved by Senate, who has no involvement with the partnership. If the challenge is upheld, the case will be referred back to the partner organisation to be reheard under its own procedures. Otherwise, the University will not refer the case back to the partner organisation to be reheard and the Academic Standards Officer or nominee will advise the student accordingly. This will include advice with regard to a student's further right of appeal to the Office of the Independent Adjudicator (OIA).

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