



Cardiff
Metropolitan
University

Prifysgol
Metropolitan
Caerdydd

09.2

STUDENT FITNESS TO PRACTISE PROCEDURE

**CARDIFF METROPOLITAN UNIVERSITY
PRIFYSGOL METROPOLITAN CAERDYDD**

FITNESS TO PRACTISE REGULATIONS

These Regulations are subordinate to any specific requirements of Professional Bodies.

1 Introduction

- 1.1 These regulations are applicable to students enrolled on any programme at Cardiff Metropolitan University or offered at a Collaborative Partner Institution, which leads directly to, or which satisfies a necessary condition of, a professional qualification and/or which gives the right to practise in one or more professions.
- 1.2 In addition to meeting the learning outcomes of a programme, students must satisfy Cardiff Metropolitan University that, in respect of their health and conduct, they do not constitute a risk to patients or professional clients and that they meet the requirements of professional bodies. Where Cardiff Metropolitan University cannot be so satisfied, it has a responsibility to deal with such students to ensure that they do not qualify to practise in a profession when they are deemed not fit to do so, for example:
- (i) to protect members of the public (present or future patients, service users or clients);
 - (ii) to comply with the requirements of any professional bodies concerned;
 - (iii) to protect Cardiff Metropolitan University against any legal suit brought by someone claiming to have suffered loss or harm as a result of a student proving after qualification to be unfit to practise;
 - (iv) to ensure that students do not waste time and money seeking to secure a qualification to practise in a profession, for which they are not suited.
- 1.3 Cases arising entirely from a failure of an academic component of a professional programme will be considered by the appropriate Examination Board.
- 1.4 These Regulations operate in conjunction with Cardiff Metropolitan University's '*Student Disciplinary Procedures*' and '*Unfair Practice Procedure*'. However, these Regulations and Procedures are not interchangeable, and care must be taken that the correct procedures

are invoked. Where necessary, advice should be sought from Registry Services.

- 1.5 Any information relating to cases dealt with under these Regulations, or relating to any third parties, will be treated in the strictest confidence and in accordance with the Data Protection Act 1998.
- 1.6 Examples of circumstances that might render a student unfit to practise are given below. This list is not exhaustive, and the examples below may not all be applicable to every programme.
- (i) Acting in a violent manner on or away from premises of Cardiff Metropolitan University.
 - (ii) Chronic drug or alcohol abuse.
 - (iii) Conviction of a criminal offence.
 - (iv) Severe or relapsing mental illness.
 - (v) Carrying a serious communicable disease.
 - (vi) Exploiting the vulnerability of a patient or professional client to establish a sexual relationship;
 - (vii) Offending against the vulnerable, including children, older people and those with learning disabilities or mental health issues.
 - (viii) Falsifying patient or other professional records
 - (ix) Failing to rectify behaviour that has been subject to any disciplinary actions under Cardiff Metropolitan University's regulations.
 - (x) Any other circumstance that may call into question a student's fitness to be admitted to and to practise their professional calling.

2 Preliminary Investigation at School Level

- 2.1 Each School has a duty to ensure that its students, enrolled on programmes of study leading to a professional qualification, are fit to practise, are provided with advice on standards of professional behaviour and requirements of relevant professional bodies, and will have its own internal arrangements to monitor and ensure its students' fitness to practise.

- 22 Any concerns that a student enrolled on a programme coming under the scope of these regulations may be unfit to practise should be conveyed in writing to the Dean of the School.
- 23 Upon receipt of such concerns, the Dean of the School concerned should decide within 10 working days whether to arrange for a preliminary investigation into a student's fitness to practise. In many cases, issues or concerns can be dealt with and resolved informally through discussion between School staff and student; in other cases, it may be more appropriate to pursue the matter in a more formal way. In all cases, the student shall have the right to know the case against him/her and must be given a proper opportunity to reply to that case before any decision as to his/her fitness to practise is made.
- 24 The purpose of a preliminary investigation shall be to determine whether a prima facie case exists for referral to Cardiff Metropolitan University's Fitness to Practise Committee.
- 25 The Dean of the School concerned will appoint a senior member of the School's academic staff as Investigating Officer, who will carry out investigation in accordance with the procedures set out below. The student shall be required to co-operate with the Investigating Officer in the conduct of the investigation.
- (i) The Investigating Officer shall seek to establish the facts associated with the allegations of unfitness to practise. The Investigating Officer shall seek to interview all persons whom he or she believes, on reasonable grounds, possess information relevant to the allegations of unfitness to practise.
 - (ii) The Investigating Officer shall interview all prospective witnesses and the student in the presence of an independent person who will be responsible for taking detailed notes of each interview and transcribing those notes into a statement which the witness or student will have an opportunity to review before signing as an assurance that he or she is not being misrepresented in the transcript. For any such interview the student shall be entitled to be accompanied by a person of his/her choosing.
 - (iii) The Investigating Officer must aim to complete the investigation within 30 working days of the commencement of the investigation, and shall prepare a report to the Dean of School outlining the extent and findings of the investigation. The report shall include copies of any statements from the student and witnesses and other documentary evidence relevant to the findings in the report.
- 26 As part of the investigation, a student may be required to agree that a medical report be requested in respect of his/her medical condition by the Investigating Officer and required to agree to the disclosure of any such report to the extent necessary for the proper conduct of the

investigation and any subsequent proceedings. This requirement may extend to other reports, including reports from social workers, probation officers and the police. Cardiff Metropolitan University will bear any costs of such reports.

- 27 The report by the Investigating Officer will be presented to the Dean of the School concerned, who shall be responsible for deciding normally within 10 working days whether there is a *prima facie* case to answer by the student. If so, the Dean shall refer the student to Cardiff Metropolitan University's Fitness to Practise Committee. If there is no case to answer, the Dean shall inform the student accordingly.

3 Cardiff Metropolitan University's Fitness to Practise Committee

- 31 The Committee shall be established by Registry Services, normally within 30 working days of the determination of a *prima facie* case by the Dean of School. The timescale may be longer than 30 working days where this would be in the best interests of the student to ensure a thorough investigation of the facts.

- 32 The Committee shall be comprised of four persons as follows:

- (i) a nominee of the Vice-Chancellor, who shall also act as Chair of the Committee on Fitness to Practise;
- (ii) one member of the Academic Board;
- (iii) a member of staff from another Cardiff Metropolitan University School, in which there are also programmes which have Fitness to Practise requirements but who has had no involvement with the case;
- (iv) one member external to Cardiff Metropolitan University but practising at a senior level in the student's profession. Nominations for this external member might be sought from appropriate practice providers.

- 33 The Committee shall be served by a member of the staff of Registry, Services who will be present throughout the proceedings. Other individuals, e.g. Student Services staff, may be invited by the Chair to attend in an advisory capacity in appropriate cases.

- 34 Cardiff Metropolitan University's Fitness to Practise Committee shall consider cases of students, who are enrolled on a programme leading directly to a professional qualification which gives the right to practise a particular profession or calling, which cases are referred to the Committee 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 or calling;

- (i) any health problem which may render that student a person not fit to be admitted to and practise that profession or calling.

The Fitness to Practise Committee shall consider advice from any Professional Body concerned, which should be sought in advance.

Cases involving misconduct may also be considered under Student Disciplinary Procedure. In such instances, the Chair of the Fitness to Practise Committee would be consulted prior to any penalty being imposed on the student under the Student Disciplinary Procedure.

- 3.5 Other than in exceptional situations, meetings of Cardiff Metropolitan University's Fitness to Practise Committee shall be held on a campus of Cardiff Metropolitan University.

4 Establishment of a Fitness to Practise Committee

- 4.1 When a student is referred to the Fitness to Practise Committee, the Dean of the School concerned will send the following documentation to the Secretary of the Fitness to Practise Committee.

- (i) the investigation report;
- (ii) any additional written comments on the student's conduct and/or health, explaining why there is concern as to the student's fitness to practise;
- (iii) any relevant factual information about the student's professional progress on the course;
- (iv) any other relevant documentation.

- 4.2 The Secretary of the Fitness to Practise Committee shall notify both parties of the date of the Fitness to Practise Committee hearing as soon as possible and in any event, not less than 10 working days' notice before the hearing, and shall send to the student a copy of all documentation.

- 4.3 The student shall be invited to set out his/her case in writing prior to the hearing, enclosing copies of any relevant documentation. This should be received by the Secretary to the Fitness to Practise Committee not less than 5 working days before the hearing. The student shall also send the Secretary to the Fitness to Practise Committee details of any witnesses he/she will be calling at the hearing in support of his/her case. The student is responsible for ensuring that any witnesses he/she wishes to call are notified of the date, time and venue for the

hearing.

- 4.4 The Secretary to the Fitness to Practise Committee will provide members with copies of all relevant documentation at least 5 working days before the hearing. The Committee will not receive any written material that has not also been made available both to the Dean of the School concerned and to the student.
- 4.5 All written communications will be sent to the student via email. It is the student's responsibility to ensure that all his/her contact details are up to date on the student portal.
- 4.6 The student shall normally attend the meeting in person. If the student fails to attend without reasonable explanation, the Committee shall consider the case in the student's absence.
- 4.7 The student may be accompanied by a member of Cardiff Metropolitan University's academic, welfare, or advisory staff, or by a student or an officer of the Students' Union, but not by any other individual. If the student wishes to be accompanied, he/she shall inform the Secretary of the Fitness to Practise Committee not less than 3 working days before the hearing.
- 4.8 The student may also choose to be represented at the hearing by an officer of the Students' Union, in which case the student shall inform the Secretary of the Fitness to Practise Committee not less than 3 working days before the hearing.
- 4.9 In the event that a witness for either party is unable to attend the hearing, the Chair of the Committee may agree to consider the written evidence of that absent witness.

5. Procedure for the Conduct of the Fitness to Practise Committee

The meeting of the Committee on Fitness to Practise shall be conducted in accordance with the procedure set out below. However, in exceptional situations, the Chair shall have discretion to vary these arrangements as he/she thinks fit:

- 5.1 The Chair shall introduce by name the members of the Committee, and any other persons present.
- 5.2 The Chair shall explain the functions of the Committee, as set out in section 3.4 above.
- 5.3 The Director of Registry Services or nominee shall present the case in the presence of the student and his/her representative.
- 5.4 The student (or his/her representative) shall have the opportunity to present his/her case and may call witnesses.

- 5.5 The Committee members shall have the opportunity to ask questions of the student and of any witnesses.
- 5.6 Witnesses shall withdraw after giving evidence and being questioned, but may be recalled.
- 5.7 All parties other than members of the Committee and its Secretary shall withdraw.
- 5.8 The Committee shall deliberate in private only re-calling any party to clear points of uncertainty on facts already given. If recall is necessary both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.
- 5.9 Any professional advisers appointed by the Committee may remain whilst the Committee deliberates in private but only to the extent necessary to provide any specialist advice requested by the Committee, and shall withdraw before the Committee considers its decision.
- 5.10 If it is decided that the allegation of unfitness to practise has been substantiated all the parties may be informed orally, but without discussion, of the decision and the resolution. In exceptional circumstances, the decision as to resolution may be postponed until further information is available.

6 Decisions Available to the Committee on Fitness to Practise

The Committee may, following consideration of the case:

- (i) permit the student to continue with the programme, with or without a formal written warning;
- (ii) permit the student to continue with the programme under close supervision and/or specified conditions;
- (iii) suspend the studies of the student for a specified time with conditional return;
- (iv) recommend any other action considered appropriate by the Committee to enable the student's successful completion of the remainder of the programme;
- (v) require that the student's studies on a programme leading to a professional qualification be terminated but recommend enrolment for an alternative academic qualification;
- (vi) require that the student's studies on a programme be terminated and that his/her enrolment as a student should cease.

7 Action following the Committee on Fitness to Practise

- 7.1 The decision shall be confirmed in writing to the student (and his/her representative) and to the Dean of the School by the Secretary to the Committee within 5 working days. If a decision as to penalty/resolution is delayed in accordance with paragraph 5.13 above, it will be confirmed in writing within a further 5 working days.
- 7.2 Where a student is required to withdraw from the programme of study, every effort will be made to offer an appropriate alternative course of study.
- 7.3 Where enrolment is allowed to continue on a programme under specified conditions, the School will monitor progress and report any failure to meet the conditions to the Secretary of the Committee.
- 7.4 The Secretary to the Committee shall also inform the relevant professional body of any change in circumstances that might call into question a student's suitability for registration.
- 7.5 Where a student is sponsored or supported by an employer, or employed in part-time work relevant to the programme, the employer shall also be informed of the outcome.

8 Appeals against Decisions of the Committee on Fitness to Practise

Students have the right of appeal against decisions of the Committee on Fitness to Practise in accordance with the appeals procedure set out in the appendix below.

PROCEDURE FOR APPEALS AGAINST DECISIONS OF FITNESS TO PRACTISE COMMITTEES

1. Appeals may only be considered based on one or both of the following grounds:
 - 1.1 irregularities in the conduct of the Fitness to Practise Regulations, which are of such a nature as to cause reasonable doubt whether the Fitness to Practise Committee concerned would have reached the same decision had they not occurred;
 - 1.2 exceptional personal circumstances or new evidence, not known to the Fitness to Practise Committee when the student's case was considered and which can be shown to be relevant to the alleged unfitness to practise. (In appeals based on these grounds the appellant must show good reason why such personal circumstances or evidence were not made known to the Fitness to Practise Committee before its meeting. Where a student could have reported exceptional personal circumstances or evidence to the Committee prior to its meeting, those circumstances cannot subsequently be cited as grounds for appeal.)
2. Any appeal against a decision of a Fitness to Practise Committee shall be sent in full, in writing to **Registry Services (Ref: Appeals), Cardiff Metropolitan University, Western Avenue, Cardiff CF5 2YB**, or emailed to aup@cardiffmet.ac.uk. An appeal must be received within fourteen days of the date of the notification of the Committee's decision. Simple notice of appeal given in writing by a student within the above deadline shall not be deemed to constitute an appeal proper and shall not be accepted.
3. The Vice-Chancellor or nominee is required to disallow an appeal:
 - 3.1 which is based wholly on factors which were known to the Fitness to Practise Committee;
 - 3.2 which introduces information, which was known to, and could have been reported by, the student prior to the meeting of the Fitness to Practise Committee.
4. If an appeal is disallowed, an outcome letter will be sent to the appellant via email, including an explanation for the decision.
If the appellant disagrees with the outcome of the appeal, he/she may initiate the review stage of the Appeals process. In order to initiate this process the appellant must submit details in writing to Registry Services within 14 days from the date of notification of the outcome of

the Formal Stage, reiterating the grounds for the appeal and the desired outcomes.

5. If it is decided by the Vice-Chancellor, or his/her nominee, that there is a case to be considered, it shall be referred to an Appeal Board.

The Appeal Board shall have delegated powers to act on behalf of Cardiff Metropolitan University's Academic Board and shall consist of three persons, one of whom shall be a nominee of the Vice Chancellor (in the Chair) and two of whom shall be members of the Academic Board. This shall normally be within three months of receipt of the application for appeal.

6. An appellant shall be offered a personal hearing by the Appeal Board and shall accordingly be informed in advance of the time and date of the meeting. The appellant may be accompanied by a member of Cardiff Metropolitan University's academic or welfare or advisory staff or by a student or officer of the Students' Union, but not by any other individual. The appellant may not send any other person to an Appeal Board in his/her stead.
7. The School concerned shall be invited to send a member of staff to attend the hearing and, at the invitation of the Chair of the Appeal Board, to contribute to the hearing. The School shall accordingly be informed in advance of the time and date of the meeting and shall be provided with a copy of the candidate's application for appeal.
8. The Chair of the Appeal Board shall have the discretion to declare inadmissible any matter introduced by the appellant, or by any member of staff or student accompanying the student, if he/she deems it not directly related to the contents of the appeal previously lodged in writing within the stipulated deadline.
9. The Appeal Board shall base its decision on the evidence of the appellant's submission, together with any further evidence, which it considers relevant.
10. The decision of the Appeal Board and any recommendations or advice where appropriate to the circumstances of the case shall be conveyed by the Secretary to the Appeal Board, to the appellant and to Dean of school within 5 working days of the appeal hearing.
11. The Appeal Board shall be empowered to take one of the following decisions:
 - 11.1 to reject the appeal;
 - 11.2 to disallow the original decisions and to refer the case back to the members of the original Fitness to Practise Committee for a

review of the decisions taken;

- 11.3 to require a new Fitness to Practise Committee to re-hear the case.
12. Where a new Fitness to Practise Committee is required to re-hear a case, the membership of that committee must be entirely different from that of the previous committee.
 - 12.1 The new committee shall not be provided with any evidence of the decision of the previous committee, or of any other matter discussed by the previous committee or appeal board, other than that it is re-hearing a case on appeal.
 - 12.2 An obligation to hear the case on the basis of the facts presented before them at the hearing and not in the light of anything that they may have heard or discovered outside the committee, shall be framed within any terms of reference applying to the committee members.
13. The decision of the Appeal Board shall be final, and the matter shall, therefore, be regarded as closed. There shall be no discussion of the decision of the Appeal Board with the appellant or any other person.
14. The Appeal Board may make recommendations for consideration by the Academic Quality and Standards Committee or the Academic Board as appropriate on any matters arising from the consideration of appeals.
15. Pursuant to the Higher Education Act 2004, the Office of the Independent Adjudicator for Higher Education (the OIA) has been designated by the National Assembly for Wales from 1 January 2005 as the operator of an independent scheme in Wales for the review of student complaints.

Once all the relevant Cardiff Metropolitan University procedures above have been exhausted a candidate may submit a complaint to the OIA about the way in which the appeal had been processed. Any such complaint must be submitted by sending a completed scheme application form together with all relevant information to the OIA within twelve months of the date on the "Completion of Procedures Letter" from Cardiff Metropolitan University on completion of its internal procedures. A scheme application form can be downloaded from the OIA website www.oiahe.org.uk or by telephoning or writing to the OIA. The contact details for the OIA are as follows:-

OIA Second Floor, Abbey Gate, 57-75 Kings Road, Reading, RG1
3AB
TEL:- 0118 9599813
Email: enquiries@oiahe.org.uk