

09.2

FITNESS TO PRACTISE PROCEDURE

# Key Details

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# Version Control

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| **VERSION** | **DATE** | **REASON FOR CHANGE** |
| 1.0 | 08 Jun 2022 | First version |
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FITNESS TO PRACTISE PROCEDURE

These regulations are complimentary to any specific requirements of Accreditation/Professional Bodies. Students should ensure that they are familiar with any professional requirements associated with their programme. Any questions regarding this should be directed to the specific programme team.

# Introduction

## The Fitness to Practise regulations apply to all students enrolled on a professional or accredited programme at Cardiff Metropolitan University (or Collaborative Partner Institution). The aim is to ensure students demonstrate the required character, along with the attitudes and behaviours (on and off campus) expected by both the University and professional/regulatory bodies. These regulations also ensure students possess the essential skills and knowledge and aptitude to practise within their chosen profession.

## Cardiff Metropolitan University aims to provide continuous professional development for students so that they are fit for practise and is committed to supporting students throughout their journey whilst ensuring the following:

### Applicants are suitable to study towards/practise in a particular profession.

### Student conduct/achievement reflects Cardiff Metropolitan University’s values and meets the expectations of the relevant professional body requirements.

### Members of the public (present/future patients, service users/clients) are safeguarded.

### Cardiff Metropolitan University’s reputation and legal position is protected.

## Fitness to Practise regulations exist to support students and ensure their safety and the safety of those around them, whilst preserving the integrity of the profession they are pursuing. The Fitness to Practise regulations may overlap with other regulations, such as the Unfair Practice Procedure or Student Disciplinary Procedure, but these regulations/procedures are distinct and are not interchangeable.

## For example; an allegation of Unfair Practice against a student or any conduct leading to disciplinary action may call into question a student’s fitness to practise, but the Fitness to Practise process would not supersede the Unfair Practice or Student Disciplinary Procedures. In most cases the Unfair Practice and Disciplinary procedures would be used in the first instance and then the outcome possibly considered under the Fitness to Practise Procedure.

## 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 Policy:

## <https://www.cardiffmet.ac.uk/about/policyhub/Documents/data-protection-policy.docx>

## Should the University be advised of any criminal activity or a criminal investigation or concerns raised by a statutory authority, a Risk Action Panel may be convened prior to any investigation taking place.

## Students who are going through the Fitness to Practise procedure and wish to seek support and advice should contact either the Students’ Union, the relevant trade union, or the Student Wellbeing Team.

## Concerns surrounding a student’s fitness to practise may be raised at any point in the student lifecycle and will be dealt with impartially and in a timely manner (normally within 90 working days of a concern being raised, potentially longer in complex cases, where a criminal investigation is ongoing for example). For cases that exceed the 90 working days, students will be advised of this and kept updated.

## Examples of issues which might raise a cause for concern are outlined below. This list is not exhaustive and may not be applicable to every professional programme.

## Academic misconduct (e.g. plagiarism, collusion, purchasing or using work which is not a student’s own, cheating in examinations);

## Disciplinary offences (e.g. antisocial, abusive or threatening behavior, sexual misconduct, violence, bullying or harassment, damage to property, internet access abuse, substance/alcohol abuse), this also encompasses disruptive behaviour off campus;

## Breaches of Health and safety regulations (on campus/placement) or demonstrating unsafe practices, incompetence, unprofessional behaviour (having a poor attitude, being aggressive or lazy);

## Failure to disclose relevant information for example any kind of investigation or action from any statutory agency (e.g. the police or Social Services), criminal convictions, carrying a serious communicable disease, or falsifying documentation;

## Failure to manage health appropriately and to seek help or engage with appropriate services in relation to mental/physical health issues (these may also fall under the Fitness to Study Procedure);

## Safeguarding issues, such as; exploiting the vulnerability of a patient/professional client or offending against the vulnerable, including children, older people, those with learning disabilities or mental ill health; allegations of discriminatory practice;

## Falsifying records (patient or other professional/placement records) or breaching confidentiality;

## Poor communication or language skills and failure to correct behavior or conduct that has been subject to disciplinary action or raised as a cause for concern;

## Indiscipline (not adhering to placement dress code or other regulations, such as: use of mobile phone/internet, poor attendance or time management), failure to participate with investigations into causes for concern or allegations of unprofessional behaviour;

## Any other behaviour or conduct that may call into question fitness to practise in a particular profession.

# Raising Concerns

## A concern must be raised to determine whether a potential case of Fitness to Practise exists. Concerns may be voiced to the Host/Secondary agency, the University or both and may be raised at any time by anyone.

## Any initial concerns that arise will be informally discussed with the student. If these concerns have not been initially raised by the Programme Director, then they will also be notified.

## The Programme Director will schedule a meeting with the student to discuss the nature of the concern. At this meeting it may be decided whether an action/support plan can resolve the issues or if the case will need to be taken forward for further investigation.

## The student will be informed in writing of the nature of the concern and will have the right to bring either a member of Cardiff Metropolitan’s academic, welfare, or advisory staff, or a student or officer of the Students’ Union with them to the meeting for support (legal representation will only be considered in cases that involve legal proceedings). The actions arising from the meeting will be recorded and shared with the student.

## Any cases that indicate that there are potential risks to others and meet the criteria above in section 1.7 may be escalated immediately to the Dean of the School or nominee if necessary.

# Preliminary Investigation at School Level

## Any areas of concern regarding a student’s Fitness to Practise will be conveyed in writing to the Dean of the School by the Programme Director.

## 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.

## Students will be informed in writing by the school of any concerns that have been raised. Students are expected to engage with the process of the Fitness to Practise Procedure.

## If deemed necessary, students may be temporarily suspended from their studies by the school during this period until an outcome has been reached. This action is not a sanction but a neutral act to allow the university to apply its policies and procedures. This period of suspension will also include any placement elements of the programme that fall within the timeframe. This decision will be made by the Dean of the School as a nominee of the Vice Chancellor. Any suspensions will be reviewed by the Dean and students will be kept informed of any changes.

## The Dean of the School concerned will appoint an Investigating Officer to oversee the investigation. Advice and support for the Investigating Officer will be provided by Registry Services if required.

* + 1. The role of the Investigating Officer is to establish the facts, collate evidence and interview witnesses relevant to the case.
		2. The Investigating Officer shall interview the student and all prospective witnesses in the presence of an independent recorder/note taker. The transcript(s) of the interview(s) will be reviewed and signed off by all parties. The student is entitled to be accompanied by either a member of Cardiff Metropolitan’s academic, welfare, or advisory staff, or a student or officer of the Students’ Union at the meeting for support (legal representation will only be considered in cases that involve legal proceedings).
		3. The Preliminary Investigation should normally be completed as quickly as possible, but may take up to 30 working days of the commencement of the investigation (but may take longer in more complex cases). Students will be informed if the investigation will not be completed within the 30 working days. The report on the findings of the investigation will be presented to the Dean of School and will include copies of any additional statements submitted by the student or witnesses, along with other documentary evidence relevant to the investigation.

## If the areas of concern relate to a medical condition, a medical report may be requested by the university. The Investigating Officer will consider any relevant information from the report to the extent necessary for the proper conduct of the investigation and any subsequent proceedings. This requirement may extend to other reports, including (but not limited to) reports from social workers, probation officers, Student Services and the police. Cardiff Metropolitan University will bear any costs of such reports. Consent of the student will be sought in the first instance to obtain a report. Such consent cannot be unreasonably withheld.

## The report will be presented to the Dean of the School, who will review the findings (normally within 10 working days). If the Dean of School believes there is a case to answer, they will refer the case to Registry Services who will take the case forward to a committee. If there is no case to answer, the Dean shall inform the student in writing.

# Cardiff Metropolitan University's Fitness to Practise Committee

## The Committee shall be established by Registry Services as quickly as possible, but may take up to 30 working days from receipt of the case from the Dean of the School. The timescale shall reflect the complexity of the case and may be longer than 30 working days to ensure the appointment of an appropriate external panel member and a thorough understanding of the facts, especially in cases that involve criminal proceedings for example. Students will be informed if the committee will not be established within the 30 working days and kept updated.

## The Fitness to Practise Committee shall be comprised of four persons as follows:

## a nominee of the Vice-Chancellor, who shall also act as Chair of the Committee on Fitness to Practise;

## one member of the Senior Professional Services or Academic staff;

## 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;

## one member external to Cardiff Metropolitan University but practising at a senior level in the student’s profession (for HEIW cases, a Placement Provider representative may be required).

## The Committee will 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.

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

## Cardiff Metropolitan University's Fitness to Practise Committee shall be held either on a campus of Cardiff Metropolitan University or virtually online.

# Establishment of a Fitness to Practise Committee

## Registry Services will notify the School and the student of the date of the Fitness to Practise Committee hearing as soon as possible (normally, no less than 10 working days’ notice before the hearing) and will send a copy of all documentation relevant to case.

## Prior to committee, the student will be invited to set out their case in writing, including copies of any relevant documentation or evidence and notification of any witnesses they wish to call. This should be submitted not less than 5 working days before the committee. The student is responsible for ensuring that any witnesses they wish to call are notified of the date, time and venue for the committee.

## All written communications will be sent to the student via email. It is the student’s responsibility to ensure that their contact details are up to date on the student portal.

## If the student fails to attend the committee without reasonable explanation, the panel will consider the case in the student’s absence. If the student is not well enough to attend the committee, one postponement will be offered.

## 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. The student may also choose to be represented at the hearing by an officer of the Students’ Union. If the student wishes to be accompanied or represented, they must inform Registry Services not less than 3 working days before the hearing.

## 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.

# Procedure for the Conduct of the Fitness to Practise Committee

## The Fitness to Practise Committee will be conducted in accordance with the procedure set out below. In exceptional situations, the Chair will have discretion in varying these arrangements as necessary:

## The Chair will introduce by name the members of the Committee, and any other persons present.

## The Chair will explain the functions of the Committee.

## Registry Services will present the case in the presence of the student and any other persons present.

## The student (or representative) will have the opportunity to present their case and may call witnesses. They will also have the opportunity to ask any questions. In cases where the student is not in attendance, Registry Services will read out any provided statements for the panel.

## The Committee members will have the opportunity to ask questions of the student and of any witnesses.

## Witnesses will withdraw after giving evidence and being questioned, but may be recalled.

## All parties other than members of the Committee and Registry Services will withdraw after all evidence has been heard.

## The Committee will deliberate in private only re-calling any party to clear points of uncertainty on facts already given. The determination of the case will be made on the balance of probabilities.

## 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 will withdraw before the Committee considers its decision.

## Once an outcome has been determined 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.

# Decisions Available to the Committee on Fitness to Practise

## The Committee may, following consideration of the case:

* + 1. permit the student to continue with their programme, with or without a formal written warning;
		2. permit the student to continue with their programme under close supervision and/or specified conditions;
		3. suspend the studies of the student for a specified time with a conditional return;
		4. recommend any other action considered appropriate by the Committee to enable the student’s successful completion of the remainder of the programme and ensure the relevant professional standards;
		5. require that the student’s studies be terminated, but recommend enrolment for an alternative academic qualification;
		6. require that the student’s studies be terminated.

# Action following the Committee on Fitness to Practise

## Registry Services will confirm the decision in writing via email to the student (and representative) and to the Dean of the School within 5 working days. If a decision is delayed, it will be confirmed in writing within a further 5 working days.

## Where a student is allowed to continue on their programme under specified conditions, the School will monitor progress and report any failure to meet the conditions to Registry Services. A consequence of failure to meet conditions may result in student being called back to committee.

## Registry Services shall also inform the relevant professional body of any change in circumstances that might call into question a student’s suitability for registration.

## Registry Services will inform the University Safeguarding Lead of any case where a student is required to withdraw on Fitness to Practise grounds due to safeguarding concerns. The Safeguarding Lead will refer the case to the Disclosure and Barring Service as required.

# Complaints

## Where a student submits a complaint during the 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.

# Appeals against Decisions of the Committee on Fitness to Practise

## Students have the right of appeal against decisions made by the Fitness to Practise Committee in accordance with the appeals procedure <https://www.cardiffmet.ac.uk/registry/academichandbook/Pages/Ah1_07.aspx>.

# Office of the Independent Adjudicator

## Cardiff Metropolitan University subscribes to the independent scheme for the review of student complaints. If a student is dissatisfied with an outcome they are able to apply for a review of their appeal to the Office of the Independent Adjudicator for Higher Education (OIA) provided that the complaint they take to the OIA is eligible under its rules.

## Further information and guidance on submitting a complaint to the OIA can be found on the OIA’s website [Office of the Independent Adjudicator for Higher Education - OIAHE](https://www.oiahe.org.uk/).