



Student Fitness to Practise procedures

1. Introduction

- 1.1. The University of Edinburgh has put procedures in place to enable appropriate investigation of student fitness to practise issues. Such procedures are necessary in order to:
 - 1.1.1. comply with the requirements of the professional bodies;
 - 1.1.2. protect individuals the student has contact with during professional training;
 - 1.1.3. ensure students are appropriately prepared for entry to the profession, have developed professional attitudes and clearly understand and demonstrate professional behaviour;
 - 1.1.4. protect the University against a claim from an individual, or the representative of an individual, who has been harmed by a student in the course of that student's professional training as a result of the student's fitness to practise being in question.
- 1.2. Due to the nature of the professional programmes within the College of Medicine and Veterinary Medicine, students are expected to display standards of professional behaviour alongside the behaviours expected of all students of the University. Meeting these standards is a requirement for graduation and the University will not award a degree where it has reason to believe that an individual is not fit to practise.
- 1.3. Most professionalism concerns can be resolved by the College if they are able to provide students with appropriate supportive measures such as advice, guidance and support, or sanctions which should enable students to gain an insight into their challenges and to address these without detriment to their programme or professional career. However, there are some instances, either one off incidents or persistent issues, which cannot be resolved by supportive measures nor through the Code of Student Conduct. These are therefore progressed to the Fitness to Practise Committee.
- 1.4. All professional programmes within the College of Medicine and Veterinary Medicine are subject to the Fitness to Practise regulations. These are currently:
 - 1.4.1. MBChB (including BMedSci honours programmes)
 - 1.4.2. BVM&S (including BVetSci honours programmes)
 - 1.4.3. BSc in Oral Health Sciences
 - 1.4.4. Clinical postgraduate programmes in the Edinburgh Dental Institute
 - 1.4.5. MSc Anaesthesia Practice
- 1.5. The University retains responsibility for MBChB graduates for the duration of the Foundation Year 1 training programme and the term "student" in this document therefore also refers to Foundation Year 1 doctors.

2. Referral to Fitness to Practise

- 2.1. Referrals may be made to the Secretary of the Fitness to Practise Committee (as detailed in clause 16) by any member of staff (academic, honorary or administrative with responsibility for students); Personal Tutor, Postgraduate Dean; the MBChB Adjudication Panel; the R(D)SVS Student Support and Advisory Group; Boards of Examiners; fellow students; patients or members of the public.

- 2.2. Referrals may also be made from the Student Discipline Officer/Misconduct Officer after investigating cases concerning (i) misconduct under the Code of Student Conduct (<http://www.ed.ac.uk/academic-services/staff/discipline/code-discipline>) or (ii) plagiarism and academic misconduct under the Academic Misconduct Procedures (<http://www.ed.ac.uk/academic-services/staff/discipline/academic-misconduct>), if he considers that a student's fitness to practice has been impaired. Such referrals may only be made once the officer has investigated exclusively under the relevant policy. It should be noted that plagiarism in the early part of a professional programme may be more appropriately dealt with under the Academic Misconduct Procedures, whereas academic dishonesty at a later stage is likely to raise concerns about the student's fitness to practise.
 - 2.3. **Any member of staff who has information which would raise concern that an individual student may not be fit to practise has a responsibility to refer the student to the Fitness to Practise Committee.**
 - 2.4. Referrals to the Fitness to Practise Committee can be based on a single significant event or a pattern of behaviour, and may also follow attempted remediation that has failed to resolve the issue.
 - 2.5. In exceptional circumstances, students may be referred to fitness to practise procedures because of a health condition that is preventing them from meeting the required competencies after reasonable adjustments have been made.
 - 2.6. Fitness to Practise procedures give the University the discretion to take action when appropriate. This is regardless of whether the student might be involved in any external legal action, including criminal law investigations. Full details can be found under the University's Code of Student Conduct: <http://www.docs.sasg.ed.ac.uk/AcademicServices/Discipline/StudentCodeofConduct-Guidance.pdf>
- 3. Suspension**
- 3.1. In cases where there is an immediate and/or urgent concern for patient safety or the safety of fellow students or staff the Secretary of the Fitness to Practise Committee may ask the Chair of the Fitness to Practise Committee to immediately and temporarily suspend the student from further study while the Investigating Officer (as defined in clause 4) is being identified and the investigation is started or pending the outcome of a Hearing (as referred to in clause 7).
 - 3.2. This decision will be reviewed by the Investigating Officer once appointed and the suspension may be continued or lifted at that stage. The Chair of the Fitness to Practise Committee is invested with the authority from the Head of the College to grant such a request.
 - 3.3. The decision to suspend a student should be communicated in person to the student by the Secretary of the Committee in liaison with the Senior Tutor responsible for the area in which the student is studying, ensuring the student is appropriately supported. The student will be invited to bring a supporter to this meeting in accordance with clause 9. The student will be given written notice of the suspension at the meeting.
- 4. Fitness to Practise Investigation**
- 4.1. Upon referral, the Chair of the Fitness to Practise Committee will appoint a person to investigate the allegation (the "Investigating Officer") and write to the student to inform them of the allegation.

- 4.2. The Investigating Officer will not be the student's Personal Tutor or anyone else who is involved in supporting the student or making decisions about their academic progress. They will be a member of the Fitness to Practise Committee who will then not be a member of any Panel hearing the case. It will, however, be customary for the Investigating Officer to attend a subsequent official hearing of a Panel ("Hearing"), should one be held to answer questions regarding the investigatory process. S/he will take no part in the Panel decision.
- 4.3. The Investigating Officer must be appropriately trained and able to carry out an effective investigation in a proportionate way, considering the interests of patients and the public and those of the student.
- 4.4. The Investigating Officer may decide to meet with the student as part of the investigation. Should s/he do so the student should be offered the option to bring a supporter to the meeting and the Investigating Officer should be accompanied by a note taker. (See item 9).
- 4.5. The Investigating Officer will investigate the circumstances and prepare a report on the case including all relevant documentation and present it to the Chair of the Fitness to Practise Committee.
- 4.6. The report will contain a recommendation containing one of the options set out in Appendix 1 to these Student Fitness to Practice Procedures. The Chair shall share this recommendation with the Fitness to Practice Committee, who shall make the decision to either:
 - 4.6.1. Implement the recommendation of the Investigating Officer; or
 - 4.6.2. refer the fitness to practice matter to the Fitness to Practice Panel, holding an official Hearing.
- 4.7. The student and his/her Personal Tutor, will be informed of the decision as to the option taken by the Fitness to Practice Committee within five working days of the completion of the investigation.

5. Student Support during the Fitness to Practise investigation

- 5.1. During any Fitness to Practise investigation, the student will be given appropriate support and, where a health condition is involved, the opportunity to seek appropriate treatment.
- 5.2. Any student who is referred via the Fitness to Practice procedures can access support services which include:
 - Student Support Team within the relevant School/Deanery
 - Personal Tutor System
 - [Student Disability Service](#)
 - Occupational Health services
 - [Student counselling services](#)
 - EUSA's [The Advice Place](#)
- 5.3. There will be times when information may be shared without the student's consent if there is a potential risk to colleagues, patients or the student themselves. In such circumstances, disclosure of information will be limited to those relevant to the investigation.

6. Fitness to Practise Panel

- 6.1. The role of the Fitness to Practise Panel is to make an independent decision on a student's fitness to practise, based on the evidence gathered by the Fitness to Practise Investigator as referred to it by the Fitness to Practise Committee. The Panel will consider the case on its own merit and will take into account the balance between patient and public safety, the interests of the student and the need to maintain trust in the profession.
- 6.2. The Panel shall always comprise the following Members:
- The Chair of the Fitness to Practise Committee, who shall act as Convener of the Panel. The Chair will identify a Convenor for the Panel from the Committee if s/he is unable to act as Convenor or if it would be inappropriate for him/her to do so; and
 - Two senior clinicians (one of which must be a registered medical practitioner with a licence to practise);
 - Lay representative from a professional body* (*non-voting member*);
 - Student representative who does not know the student under investigation** (*non-voting member*);
 - where the concerns are related to health, a relevant health specialist, for example a psychiatrist or occupational health physician **(*non-voting member*); and
 - Secretary of the Fitness to Practise Committee shall also be secretary to the Panel (*non-voting member*).

*(*the Lay representative should not be from the subject area of which the student belongs)*

*(**the student under investigation will be asked if they would like a student member on a Fitness to Practise Panel but can refuse)*

*(***This person should not be involved in the treatment of the student).*

- 6.3. An external representative, from another Higher Education Institution independent of the University of Edinburgh, shall, where possible, be present at the Hearing, holding an observational and advisory role. The external representative is entitled to be present during the Panel's deliberations but will not have the right to vote on any decision of the Panel. The external representative shall be a senior academic member of the profession relating to the programme being undertaken by the student whose fitness to practise is being investigated.
- 6.4. All members must declare any conflicts of interest prior to the Panel discussions taking place. Further information on the University's Conflict of Interest policy can be found here: http://www.ed.ac.uk/files/atoms/files/conflict_of_interest.pdf.

7. Fitness to Practise Hearing

- 7.1. The Secretary of the Fitness to Practise Committee will inform the student of the Hearing by email but also in person if possible. The student will be asked to provide any evidence to support their case.
- 7.2. The student is not required to attend the Hearing. If the student does not wish to attend, the case will be heard in the student's absence. There will be no negative inference from the student's non-attendance.
- 7.3. The Fitness to Practise Panel will consider each case on its own merits with due regard to the circumstances and make a decision on the balance of probabilities about whether the student's fitness to practise is impaired.
- 7.4. The Hearing will be chaired by the Convenor who will outline to the student and his/her supporter the reason for the Hearing and the possible options open to the Panel, as set out in Appendix 1 to these Student Fitness to Practise Procedures. If the student attends the Hearing, he/she will be invited to make a statement, which

he/she can do if wanted. Any persons invited by the Panel or by the student to give evidence will then be invited to do so.

- 7.5. The Convenor will invite the Panel to ask further questions of the student or those persons called to give evidence. The student and his/her supporter and/or legal representative will then be invited to ask further questions of those persons called to give evidence (see clauses 9 and 10).
- 7.6. The Panel will then reach a decision or may adjourn the Hearing if it is felt further evidence and/or reports are required or if the Panel wishes to seek independent legal advice. Any such further evidence, reports or legal advice will be disclosed to the student.

8. Administration

- 8.1. In line with University policy all communication regarding Fitness to Practise cases between the College and the student will take place by email with the exception of the Panel documentation and the Hearing outcome letter, both of which will be produced in hard copy.

9. Student Supporter

- 9.1. The student is entitled to bring a supporter from the University community of his/her own choosing to the Hearing or a meeting relation to suspension, and also has the right to invite individuals to give evidence on his/her behalf. The supporter will normally be an Edinburgh University Students Association (EUSA) representative. All students are strongly advised to consult EUSA prior to the Hearing. The student may also choose their Personal Tutor or another member of University staff as their supporter. It is the responsibility of the student to notify such persons of the time and place of the Hearing.

The Supporter may:

- i)* act as the Student's representative;
- ii)* speak on behalf of the Student if the student so desires;
- iii)* sum up the Student's case;
- iv)* attend purely for moral support.

The Supporter may not:

- i)* answer direct questions from the Panel (or to those present at a student suspension meeting) on the student's behalf;
- ii)* prevent the Investigating Officer (or those present at a student suspension meeting) from explaining the case; or
- iii)* prevent any member of the Panel (or those present at a student suspension meeting) from asking questions.

10. Legal Representation

- 10.1. The student has a right to be legally represented at his or her own expense at the Hearing, however the secretary of the Committee must be informed of this in writing in advance of the Hearing. If this is the case, then the Committee Secretary may arrange for a legal representative of the University to be present at the Panel hearing.
- 10.2. The University will undertake the Fitness to Practise procedure according to these guidelines and will not provide additional documentation or enter into discussion with a student's legal adviser prior to the Hearing.

11. The Hearing outcome

- 11.1. The outcome of the Hearing shall be one of the options listed in Appendix 1 to these Student Fitness to Practise Procedures.
- 11.2. The outcome will be communicated verbally to the student and his/her supporter or legal representative by the Convenor and Secretary of the Panel.
- 11.3. A formal written outcome, signed by the Convenor on behalf of the Panel, including a statement of the reason for any decision reached, will be sent by email and by hard copy to the student within five working days of the Hearing.
- 11.4. Any outcomes of Investigations or Fitness to Practise Hearings will be discussed at the annual Fitness to Practise Committee meeting.

12. Appeals

- 12.1. Students have the right of appeal against the decision of the Fitness to Practise Committee or the Fitness to Practise Panel. Details about appeals are provided in paragraphs 81 to 85 of the University's Code of Student Conduct. The appeal is handled under the University's appeal procedures. Any penalties imposed by the Investigating Officer, the Student Discipline Committee or the Fitness to Practise Panel remain in force until the outcome of the appeal and any review of the decision.

13. Independent review

- 13.1. Once an appeal has been completed, the student is entitled to ask the Scottish Public Services Ombudsman (SPSO) to look at their appeal. The SPSO considers complaints from people who remain dissatisfied at the conclusion of the appeal process. The SPSO looks at issues such as service failure and maladministration (administrative fault) as well as the way the University has handled the appeal. Information on how to complain to the SPSO will be provided to the student on completion of the appeal.
- 13.2. Full information on the SPSO and on how it handles complaints can be found at the SPSO website: [Scottish Public Services Ombudsman](http://www.scot.nhs.uk/spso).

14. General Medical Council - Provisional Registration

- 14.1. Any investigation under Fitness to Practise or the University's Code of Student Conduct must be declared to the professional body at the point of provisional registration, irrespective of the outcome.
- 14.2. Any low-level concerns must also be included during the Transfer of Information process. Advice on this is available from the Head of Medical Teaching Organisation Administration or the MBChB Senior Tutor.

15. Reports of Fitness to Practise Hearings

- 15.1. A written report of the Hearing will be prepared by the Secretary of the Panel and held centrally in a confidential file. The report will be kept strictly confidential.
- 15.2. In cases where a student receives a warning or a sanction (and any appeal has been unsuccessful), information will be passed to the relevant professional body such as the General Medical Council, General Dental Council or the Royal College of Veterinary Surgeons or to other Medical or Veterinary Schools or the Postgraduate Deanery.

- 15.3. In cases where an undergraduate medical student is excluded their details will be passed to the Medical Schools Council to be held on a national register of excluded students.

16. Fitness to Practise Committee

- 16.1. The Fitness to Practise Committee shall meet annually to review the decisions of the Fitness to Practise Panel and to discuss and agree amendments to policy and procedure.
- 16.2. The Committee shall comprise the following members:
 - 16.2.1. The Chair of the Committee - will be a senior academic member of staff, appointed by the Head of College, who is a member of the profession of medicine, veterinary medicine or dentistry;
 - 16.2.2. Two senior clinical medical academics (one of which must be a registered medical practitioner with a licence to practise);
 - 16.2.3. Postgraduate Dean
 - 16.2.4. Senior clinical academic from the Royal (Dick) School of Veterinary Studies
 - 16.2.5. Senior clinical academic from the Edinburgh Dental Institute
 - 16.2.6. Senior clinical representative from Lothian Health Board
 - 16.2.7. Senior clinical representatives from any of medicine, dentistry or veterinary medicine;
 - 16.2.8. Lay representative from a professional body
 - 16.2.9. A relevant health specialist, for example a psychiatrist or occupational health physician
 - 16.2.10. Head of Medical Teaching Organisation Administration is Secretary to the Committee

Appendix 1

Recommendation options open to the Investigating Officer and Fitness to Practice Panel:

- a) *No warning or sanction* – where the student has sufficiently addressed any concerns relating to health or conduct and poses no risk to patients or the public, nor any risk to undermining the public's trust in the profession, and that the student's fitness to practise is not impaired. The case may be referred to the appropriate pastoral support if applicable;
- b) *Warning* - where there is evidence of misconduct but the student's fitness to practise is not impaired to a point requiring any further sanction. The student will be advised of the consequences of any similar behaviour or further misconduct.
- c) *Undertakings* - as noted below;
- d) *Expulsion* - expelling a student from the programme if it is considered the only way to protect the patient or client group or the public. It is applied where the student's behaviour is fundamentally incompatible with continuing on a professional programme;
- e) *Repeat of study* - If concerns are raised about a student in the final year of study, there may not be sufficient time to resolve them if it is close to the date of graduation. The College should consider the amount of time the student will have to demonstrate remediation and it may be necessary to allow a student to repeat all or part of a year, if appropriate. But in cases where there is an outstanding, justifiable concern over a student's fitness to practise, the College must not graduate the student; and
- f) *Referral of the case to a Fitness to Practise Panel holding an official Hearing* - applicable as an option by the Investigating Officer only.

Undertakings

Undertakings are where the student is required to provide a promise to the Fitness to Practise Committee (after investigation by the Investigating Officer) or Fitness to Practise Panel (as applicable) that there will not be a repeat of the circumstances or behaviour leading to the referral/Hearing. Undertakings are most likely to be appropriate if the concerns about the student's fitness to practise are such that a period of remedial teaching or supervision, or both, is likely to be the best way to address them. These may include (but are not limited to):

- a) compliance with an educational learning agreement associated with enhanced supervision (such as completion of a piece of reflective writing);
- b) a commitment to undergo medical supervision for a health-related matter
- c) remedial teaching or learning experiences (e.g. additional teaching on a ward).

Once an undertaking has been issued, the College should monitor the student to ensure they comply with the agreed undertakings.

If undertakings were imposed by the Fitness to Practise Committee following investigation by an Investigating Officer, and a student does not comply with the undertaking, the student will be referred to the Fitness to Practise Panel for a formal Hearing.

