Introduction

Where a programme of study requires the student to undertake practical training in relation to patients, clients or service-users or where the qualification provides a direct licence to practise, the University of Leicester has a duty to ensure that the student is fit to practise. In order to protect present or future patients, clients or service users and to comply with the requirements of professional/regulatory bodies, the University of Leicester has established a procedure for dealing with student-related fitness to practise issues. It is expected that issues surrounding professional behaviour will be monitored and investigated initially within the relevant Department. The Committee on Fitness to Practise will therefore normally only consider those cases that have been brought to it, following initial investigation, via appropriate staff and the relevant Health & Conduct Committee or other equivalent body at which a student’s health and/or conduct is considered.

These regulations set out the policies and procedures to be followed by the College’s Fitness to Practise Committee and others involved in fitness to practise issues. They reflect the fitness to practise guidelines of the relevant professional bodies.

1. These regulations apply to the following degrees:
   
   a) the degrees of Bachelor of Medicine and Bachelor of Surgery (MB ChB);
   
   b) the Diploma in Higher Education in Operating Department Practice (ODP) and BSc Operating Department Practice;
   
   c) the degree of Master of Arts in Social Work;
   
   d) the degree of Doctor of Clinical Psychology.

2. These regulations are underpinned by the University’s Regulations for Student Discipline which state that:
   
   a) ‘The University has separate procedures which are allied to these regulations for the investigation and consideration of allegations of fitness to practise relating to the programmes of study which lead directly to the right to practice a particular profession or calling. These programmes are the degree of Doctor of Clinical Psychology; the MBChB degrees; the Diploma in Higher Education in Operating Department Practice; the Postgraduate Certificate in Education; the MA in Social Work; and programmes in Counselling. Students studying on these programmes should familiarise themselves with the relevant procedures for the consideration of fitness to practise.
   
   b) In the case of students who are subject to fitness to practise procedure, an allegation under the disciplinary code will, almost inevitably, raise an issue of concern to the relevant fitness to practise committee. In such cases, the disciplinary process shall take priority and any fitness to practise procedure will be postponed or adjourned until the completion of the disciplinary procedure under these Regulations. For the avoidance of doubt, it is stressed that the disciplinary process and the fitness to practice procedures are separate processes, the latter being concerned exclusively with the suitability of an individual to pursue a particular profession.
   
   c) Following the completion of the disciplinary procedure, the relevant fitness to practise committee may, if it considers it appropriate to do so, initiate or continue its own procedure. In so doing it would not normally reinvestigate the facts and would, instead, adopt the findings of the disciplinary committee or of the authorised officer. In considering
the appropriate outcome of its proceedings, while the Fitness to Practise Committee should have regard to any disciplinary sanction which has been imposed, it should use its own judgement to determine the separate issue of the individual’s fitness to practise.’

**The Fitness to Practise Committee**

3. There shall be a Fitness to Practise Committee, which shall be appointed by and report to the Senate Student Discipline Committee. It shall be responsible for maintaining an overview of matters relating to fitness to practise and make recommendations to the Senate Student Discipline Committee from time to time on matters relevant to this regulation.

4. The Fitness to Practise Committee will receive the outcomes of cases that have been considered by Fitness to Practise Panels and receive and review the progress of students who have been before a Panel, paying particular attention to whether or not a student has fulfilled any requirements or conditions place upon the student. The Fitness to Practise Committee will receive reports from the Health and Conduct Committee or other equivalent body in cases where a student has been referred to that Committee for monitoring.

5. The Fitness to Practise Committee will be responsible for ensuring that those members who are eligible to sit on a Panel are appropriately trained and up-to-date with relevant Professional Statutory and Regulatory Body regulations and guidelines.

6. The College’s Director of Administration, or his/her nominee, shall be Secretary to the Fitness to Practise Committee and shall, on behalf of the Committee, be responsible for convening Fitness to Practise Panels under these regulations.

7. The composition of the Fitness to Practise Committee shall be as follows:

   a) a lay Chair;
   
   b) up to three further lay members, one of whom shall be Vice-Chair;
   
   c) the Associate Dean of the School of Medicine;
   
   d) four members of the clinical academic staff of the College, at least one of whom shall be a psychiatrist;
   
   e) one member of the non-clinical academic staff of the College;
   
   f) up to three senior clinicians, not being employees of the University, with experience of teaching medical students;
   
   g) one qualified social worker not being an employee of the University, and with experience of teaching social work students;
   
   h) one junior doctor;
   
   i) two student members in total from the programmes covered by these regulations.

8. Members in categories (a), (b), (e), (f), (g) and (h) shall be appointed for a three-year term, which may be renewed for a maximum continuous period of nine years. Members in category (d) will not have a maximum continuous period of appointment.
9. Members in categories (a) and (b) shall be appointed by the Nominations Committee on the recommendation of the Head of College; they shall be independent of the University, not employees of the NHS or a Social Services department, and have appropriate experience in public life.

10. Members in categories (d), (e), (f), (g), (h), and (i) shall be appointed by the Head of College in liaison with the Chair.

11. The Chair of the Fitness to Practise Panels shall not be a member of the Fitness to Practise Committee, but may, from time to time, be invited to attend Committee meetings to assist Members on matters relating to the role of the Fitness to Practise Committee.

**Panels of the Fitness to Practise Committee**

12. Cases relating to the consideration of fitness to practise issues for individual applicants and students shall be considered by a Fitness to Practise Panel with full delegated authority to determine the outcome of each case. Panels will be convened by the Secretary of the Fitness to Practise Committee.

13. The Fitness to Practise Committee shall appoint a Chair of its Fitness to Practise Panels. A Deputy Chair will also be appointed. The Panel Chair and Deputy Chair will be clinical academic staff of the College who are members of the departments which host the MB ChB, ODP, Social Work or Clinical Psychology Programmes, who do not hold a strategic or administrative role in the delivery of these programmes and who will not be members of the Fitness to Practise Committee.

14. The Head of the College of Medicine, Biological Sciences and Psychology, the Associate Dean of the School of Medicine and the student members of the Committee are not eligible for Panel membership.

15. A Panel will have a minimum of three members.

16. For medical and ODP students the composition of a Panel will include at least:

   a) Chair or Deputy Chair
   
   b) One lay member of the Committee
   
   c) one other member of the Committee from eligible categories of membership.

17. For Social Work students the composition of a Panel will include at least:

   a) Chair or Deputy Chair
   
   b) one member of the Committee with a Social Work background
   
   c) One lay member of the Committee

18. For Clinical Psychology students the composition of a Panel will include at least:

   a) Chair or Deputy Chair
   
   b) one senior clinical psychologist with experience of training clinical psychology co-opted for the purpose

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c) One lay member of the Committee

19. A Panel may co-opt other suitably qualified individuals (who may or may not be associated with the Medical School) subject to the agreement of the Chair of the Fitness to Practise Committee.

20. The outcome of cases heard by Panels shall be reported to the Fitness to Practise Committee.

**Admissions Cases**

21. The responsibility for deciding to refer the circumstances of an applicant for consideration by a Fitness to Practise Panel rests with the Admissions Tutor for the course. Normally the circumstances giving rise to concern will relate either to the health or disability of the applicant, to the applicant’s criminal record, or to the applicant’s general honesty.

22. Where a case relating to an applicant is considered by a Fitness to Practise Panel, the Panel shall normally determine the outcome without holding a hearing.

**Health and Disability**

23. Where an Admissions Tutor is concerned that the health of an applicant, especially disability or illness likely to pose a risk to patients or clients, will affect an applicant’s fitness to practise, the Admissions Tutor should, with the consent of the applicant, seek to obtain in confidence appropriate medical or other reports.

24. If, in the light of such a report, the Admissions Tutor concludes that the applicant would be fit to practise following successful completion of the course, the circumstances causing concern will be set aside and the applicant assessed using the standard entry criteria and procedures. The Admissions Tutor will maintain a record of such cases for the information of the Committee.

25. If, however, in the light of such a report, the Admissions Tutor concludes that the applicant will, in his/her opinion, not in time be fit to practise, the reasons, with details of the applicant, including the medical reports, should be referred to the Secretary of the Fitness to Practise Committee.

26. Each case referred by an Admissions Tutor will be fully considered by a Panel. On the basis of the evidence presented, and taking account of previous comparable cases and any criteria the Committee may have established over time, the Panel will either decide to confirm the recommendation from the Admissions Tutor that the applicant would not be fit to practise the profession concerned, following qualification, or will decide that the circumstances of the applicant are not such as to so judge, and will instruct the Admissions Tutors to proceed with assessment of the applicant using the standard entry criteria and procedures. The Panel may, with the applicant’s consent, commission further medical reports where it regards this as helpful, and will, where necessary, meet with the applicant to discuss the outcome.

27. In cases where a Panel concludes that the applicant does not show potential fitness to practise, the Admissions Tutor will notify the applicant, giving a written summary of the reasons for the Panel’s decision.

**Criminal records**

28. Applicants are required to declare any criminal records (including cautions and ‘spent’ convictions) during the admissions process and this requirement is reinforced in writing and at interview.

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29. Where an applicant has declared a conviction, the Admissions Tutor shall obtain a factual statement from the applicant on the circumstances of the offence(s), including the nature of the offence, the date and the precise terms of any penalties imposed. This information should be referred by the Admissions Tutor to the Secretary of the Fitness to Practise Committee with a recommendation as to the impact of the offence(s) on the applicant’s fitness to practise.

30. The Secretary will refer all such cases to the Head of College or a person appointed by him/her, who will consider each case taking account of a record of previous cases and any criteria or guidances established by the Committee in the light of these. The Head of College or his/her delegate may then decide:

   a) that the offence(s) are not sufficiently serious to prevent the applicant from practising and the Admissions Tutor shall then assess the applicant using the standard entry criteria and procedures. The Tutor will also notify the applicant that, if admitted, any further criminal behaviour would jeopardise his/her position at the School. All such instances of the Head of College’s action shall be reported to the Committee; or

   b) that the case should be considered by a Fitness to Practise Panel. In such cases the Secretary will invite the applicant to submit a written statement and any supplementary evidence (testimonials to good behaviour etc.). This documentation will be considered in full by the Panel.

General Honesty

31. Where an Admissions Tutor or other officer has reason to question the general honesty of an applicant, for instance where it becomes apparent that application documentation has not been properly and frankly completed, the case will always be referred to a Fitness to Practise Panel. The Secretary will invite the applicant to submit a written statement and any supplementary evidence, and this will be considered by the Panel together with a report by the Admissions Tutor or other officer involved.

Outcomes of Admission cases

32. Where an admissions case has been considered by a Fitness to Practise Panel, the applicant will be notified in writing by the Secretary of the Panel’s conclusions.

33. In all cases, a student subject to pre-admission Fitness to Practise procedures will be referred to the Health and Conduct Committee (in respect of medical students) or equivalent course-level professional monitoring teams for ODP, Social Work, or Clinical Psychology for monitoring following admission.

Cases involving registered students

34. A student may be referred to a Fitness to Practise Panel of the Fitness to Practise Committee where evidence emerges, which brings into question a student’s fitness to practise. This may include, for example, issues of behaviour and attitudes, dishonesty, criminal conduct, or conduct likely to bring the profession into disrepute. Illness may also require the consideration of a Fitness to Practise Panel. At all times the consideration of patient or client safety shall be paramount. There may be circumstances that do not present a direct risk to patients or clients, but still bring into question a student’s fitness to practise.
Investigation of allegations against currently registered and former students

35. Concerns relating to the fitness to practise of a currently registered student will normally arise in one of the following ways:

   a) from the Health and Conduct Committee (HCC) in respect of medical students or the equivalent course level professional monitoring teams for ODP, Clinical Psychology, and Social Work;

   b) following a complaint from a patient or client, carer, health professional colleague (including medical students), or member of the public;

   c) following disclosure by a body such as the Police, Crown Prosecution Service, Disclosure and Barring Service or a professional, statutory or regulatory body, or by the student themselves, of a criminal offence or other inappropriate behaviour;

   d) following disclosure by the student themselves of ill health capable of affecting fitness to practise.

36. All such reports which refer to a student on the MB ChB programme should be forwarded to the Secretary of the HCC who in the case of b) and c) above will refer the student to the Chair of the HCC. The HCC will investigate the allegations as described in the Code of Practice for the HCC.

37. All such reports which refer to a student on the ODP programme should be forwarded to the School of Operating Department Practice which will conduct an initial investigation according to the School’s Professional and Academic Concerns Group’s code of practice and which may subsequently refer the student to the Chair of the HCC. The HCC will investigate the allegations as described in the Code of Practice for the HCC.

38. All such reports which refer to a student on the MA in Social Work should be forwarded to the School of Social Work which will conduct an initial investigation and which may subsequently refer the student to the Chair of the HCC. The HCC will investigate the allegations as described in the Code of Practice for the HCC.

39. All such reports which refer to a student on the DClinPsy programme should be forwarded to the School of Psychology which will conduct an initial investigation and which may subsequently refer the student to the Chair of the HCC. The HCC will investigate the allegations as described in the Code of Practice for the HCC.

40. As soon as fitness to practise procedures are invoked in relation to a Clinical Psychology student, the trainee’s line manager and the Human Resources Department of their NHS employer should be advised and these should act in accordance with Trust policies and procedures. The Secretary to the Fitness to Practise Committee should keep all parties informed throughout the formal fitness to practise process.

41. Any case deemed to warrant further proceedings under the Fitness to Practise regulations will require the Secretary to the Fitness to Practise Committee to convene a Panel.

Proceedings of a Fitness to Practise Panel

42. When a student’s case is referred to the Secretary to the Fitness to Practise Committee, a Fitness to Practise Panel will be convened with members who have had no previous sustained
individual contact with the student for the purposes of teaching or pastoral care such that there is no conflict of interest.

**Information given to the student and the Panel**

43. The Secretary to the Fitness to Practise Panel shall send to the student, not later than 20 working days prior to the date of the hearing, a written summons stating:

a) The membership of the Panel;

b) the date, time and place of the hearing;

c) the reasons(s) for referral to the Fitness to Practise Committee and the identity of the person who will be presenting the case against them;

d) information on the order and conduct of proceedings in hearings as set out in this policy;

e) the right of the Panel to proceed in the student’s absence if, having been given due notice of the date of the hearing and sufficient notice of the documentary evidence available to the hearing, he or she fails to appear without providing prior good reason for absence. The decision of the Chair of the Panel as to whether to proceed in the student’s absence shall be final.

f) Where practicable, the the identity of any witnesses who are already expected to be in attendance.

42. The Secretary to the Panel will also enclose with the summons written comments from the person presenting the case against the student and/or members of staff connected with the case explaining their concern as to the student’s fitness to practise, together with factual information about the student’s progress in the course and any other relevant documentation including the statements of any relevant witnesses.

44. Prior to consideration of his/her case by a Fitness to Practise Panel, a student may be required to attend the Occupational Health Service in order that a report can be made on his or her fitness to practise on medical grounds. The report will be sent to the Committee Secretary and copied to the student and the Head of Department.

45. Having received the written summons, the student may set out his or her response in writing with copies of any relevant documentation. This must be sent to the Committee Secretary not less than ten working days before the meeting to allow the Panel and the Department sufficient time to study any additional papers. (University working days are Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, excluding weekdays when the University is closed). The Secretary to the Panel will circulate the student’s written response to the Panel and the person presenting the case. All written evidence made available to the Panel will also be made available to the student and to the person presenting the case.

46. If the student wishes to obtain character references and or letters of support, the contact details of the referee/supporter should be e-mailed to the Secretary to the Panel. The Secretary will contact the referee/supporter to request references and will circulate copies of any documents received to the student and the Panel members.
47. The Chair may determine that a hearing should be postponed or adjourned if any written evidence is supplied without sufficient notice for it to be circulated and properly considered by all relevant parties.

48. Any written communication to the student will be e-mailed and posted to the registered semester-time address last supplied by the student, or, during vacations, to his or her home address if this is different from the semester-time address. It is the student’s responsibility alone to ensure that his or her current addresses are made known to the School concerned.

49. The ruling of the Chair of the Panel on any point of procedure relating to the conduct of the Panel shall be final.

_Abandonment/non-abandonment of cases when a student withdraws from the University_

50. Where a student withdraws from the University following the instigation of an investigation under these regulations, but prior to the conclusion of its consideration as provided for under these regulations, the Chair of the Fitness to Practise Committee shall determine whether the procedures should be continued at that time. This shall include a situation where the University deems that, due to non-response to communication, a student has withdrawn in fact, although they have not notified the University formally of a decision to withdraw.

51. In the event that the Chair determines that the case should proceed in these circumstances, but at any point in its consideration a decision cannot be reached (for example due to the non-engagement of the student in the process), consideration of the case may be abandoned or suspended. Where consideration of a case is suspended in this manner, the University may refuse admission to any programme of study or the provision of any other service to the student concerned until consideration of the suspended disciplinary case is properly concluded.

52. The University will normally require the proper conclusion of a suspended case where it deems it necessary in order to safeguard (i) its own staff, students and property; (ii) any members of the public (in particular patients, children and vulnerable adults) affected or potentially affected by the outstanding allegations against the student; or (iii) the codes of practice and/or standards established by professional, regulatory or statutory bodies. It will also enforce this provision concerning suspended consideration of cases where students withdraw in other circumstances, where it considers there is good cause to do so.

53. Under the Ordinances of the University, Senate may deprive a student or former student of any award when it has good cause to do so. The University reserves the right to investigate allegations of misconduct arising against former students under these regulations, in order to ascertain the facts and determine any penalties which should be imposed in such cases.

_Attendance at the Panel_

54. The student will be required to attend the hearing in person. If the student fails to attend without reasonable explanation, the Panel may consider the case in the student’s absence. The Chair will have discretion as to what constitutes a “reasonable explanation”. The student may choose to be accompanied by a friend. This may be a personal friend, a member of their family or a current member of the University (staff or student). Alternatively the student may choose to be accompanied by a representative who is a member of the University or from the relevant professional association. For the purpose of this procedure, “someone from the relevant professional association” is defined as a representative of the Medical Protection Society,
Medical Defence Union, the Medical and Defence Union of Scotland or similar medical defence organisation, the British Association of Social Workers, the College of Operating Department Practitioners or, in the case of DClinPsy students, the relevant trade union. A representative may undertake the presentation of the case on behalf of the student, providing that the student is present. A friend may not do so. It is the responsibility of the student wishing to be accompanied to inform his or her friend or representative of the date, time and place of any meeting or hearing. The student shall, where possible, notify the Secretary to the Appeals Panel of the name of any friend or representative who will be accompanying him or her at least two days before the date of the hearing or meeting.

55. Cases against students on the MB ChB course will be presented by the Chair of the HCC or his/her nominee; cases against students registered on the other degrees covered by these regulations will be presented by the relevant Head of Department or his/her nominee.

56. The student, the person presenting the case against the student and the Chair of the Panel may nominate witnesses to attend the hearing. The purpose of calling for witness evidence is to inform the Panel’s deliberations. The Chair of the Panel’s decision as to whether to accept a nomination is final. The Panel reserves the right to proceed in the absence of any particular witness and the ruling of the Chair of the Panel in this matter shall be final.

57. The Secretary to the Panel will be responsible for inviting all witnesses to attend the hearing. The party calling the witness must inform the Secretary as soon as possible of the nomination, and the request will be considered by the Panel Chair. If the nomination is approved the Secretary will issue the witness with an invitation to attend, making clear who has requested their evidence and why, explaining that attendance is voluntary and explaining the procedures. When nominating a witness, parties should provide sufficient advance notice to enable the witness to attend the hearing.

58. The Panel Chair will determine whether some or all of the written evidence should be made available to a witness.

59. At the discretion of the Chair, the Panel may also call upon other persons (whether or not a current member of the University) to provide advice on specific aspects of the case in writing or in person.

Procedure for the conduct of the Panel

This section is a guide to the conduct of the Panel. The Chair has discretion to vary these arrangements as s/he thinks fit.

60. Panel hearings will not be held in public (see Senate Regulation 11).

61. In the event that two or more students are involved in a single incident that has led to Fitness to Practise procedures, each student will appear individually before the Panel. However, in order to optimise conformity of process the Committee Secretary will try if possible to convene the same Panel members to hear all of the students’ cases. This may not always be possible.

62. Prior to the meeting the Secretary to the Panel will ensure the student has copies of all documents circulated to members of the Panel and is aware of the procedures to be followed. Any late submissions of documentation will only be allowed to be put in front of the Panel at the discretion of the Chair. Such late submissions and considerations by the Chair may result in a delay or an adjournment of the proceedings.
63. The student, the friend or representative (if attending) and the person presenting the case against the student will join the Panel at the same time.

64. The Chair of the Panel will introduce the Panel by name and explain the responsibilities of the members of the Panel, the other staff attending, and any others present.

65. The Chair of the Panel will explain the powers of the Panel, as set out above. The Chair will explain that the Panel will proceed in the expectation that all present will have read the relevant paperwork.

66. The Chair of the Panel will invite the person presenting the case against the student to make an opening statement. This opening statement will normally last no more than 15 minutes [because, as stated above, the expectation is that all present will have read the relevant paperwork]. The Chair will then invite questions from the Panel and the student (or their representative). Panel members may ask the student questions. The person presenting the case against the student may then call witnesses to give evidence. The Panel and the student (or their representative) will have the opportunity to question the witnesses.

67. The Chair of the Panel will invite the student or their representative to make a statement. The Chair will explain that the Panel will wish to hear directly from the student in his/her own words.

68. The student may then call witnesses to give evidence. The Panel and the person presenting the case against the student will have the opportunity to question the witnesses.

69. Any other person(s) called upon by the Chair to attend the Panel (as referred to in Paragraph 57) will be invited to make a brief statement, and may then be asked questions by the student and/or their representative, the person presenting the case against the student and the Panel.

70. Once the Chair is satisfied that the Panel has completed its questioning and all parties have had a full opportunity to convey information to the Panel and ask questions of the other attendees, all parties except for the Panel and the Secretary will withdraw from the room.

71. The Panel will then discuss the case in private.

72. If the Panel requires further clarification of any aspect of the case from any of the parties or witnesses, all parties and the relevant witnesses must be invited back into the meeting while the questioning takes place. They will then all leave the meeting again.

73. Any application made by a party on behalf of their witness to leave after assisting the Panel will be at the discretion of the Chair.

74. The Panel may adjourn but will make its decision as soon as is reasonably practicable.

75. The standard of proof used by the Panel is proof on the balance of probabilities; a fact will be established if it is more likely than not to have happened. Decisions of the Panel shall be taken by simple majority. Where the votes are equal, the Panel shall decide the issue under consideration in favour of the student.

76. The decision, and any findings of fact, will be conveyed to the student and the other parties as soon as practicable, and will in any event be conveyed to the student in writing by e-mail and recorded delivery, normally within ten working days of the Panel reaching its decision. For the protection of the public and to ensure continuing support to the student, it may be necessary
for a copy of the written determination to be sent to the University's Occupational Health service, the University’s Disability Support Office, the relevant health or social care regulator, or the relevant body concerned with the supervision of newly graduated professionals, e.g. the Foundation School.

77. The Secretary will ensure that a record or note of the meeting is kept. The form of the record shall be a matter for the Chair's discretion.

*Outcomes of the deliberations of a Fitness to Practise Panel*

78. A Panel may determine one or more of the following actions in relation to the fitness to practise of the student:

   a) that there are no concerns about the student’s fitness to practise and to take no action.

   b) that the student is suffering an illness sufficient to impair his/her fitness to practise and to suspend his/her registration until such time as a satisfactory medical report is received;

   c) that the student is suffering an illness sufficient to impair his/her fitness to practise and that, notwithstanding his/her academic progress, the award of the degree(s) be withheld, or s/he be not permitted to graduate until such time as a satisfactory medical report is received;

   d) that the student’s fitness to practise is impaired and that s/he therefore be required to make an undertaking as to his/her future conduct;

   e) that the student be warned that his/her behaviour, attitude, or conduct is such that s/he is at significant risk of having his/her registration terminated, not being awarded the degrees, or not being permitted to graduate, on the basis his/her fitness to practise is impaired;

   f) that the student’s behaviour, attitude, or conduct is such that that his/her fitness to practise is impaired and that his/her registration be suspended for a specified period until satisfactory reports are received;

   g) in the case of students on the MB ChB, that the student’s fitness to practise is impaired and s/he is in Neglect of his/her Professionalism Obligations. The student will be referred to the next Board of Examiners with a recommendation that the student should not progress (irrespective of whether or not the student has met all other progression requirements) due to Neglect of Professionalism Obligations. The Board of Examiners will normally allow a repeat of the year. However, if there are student health issues that need addressing then the Board of Examiners may require the student to suspend their studies before repeating the year. A student may repeat a year as a consequence of Neglect of Professionalism Obligations on a single only occasion during the Programme;

   h) that the student’s fitness to practise is impaired such that conditions must be placed on work, placement, monitoring and examinations. The Panel shall request further reports until it is satisfied itself that the issues giving rise to concern have been addressed;
i) that the student’s registration be terminated on grounds that s/he is unfit to practise

j) that, notwithstanding a student’s academic progress, s/he be not awarded the degrees, or not be permitted to graduate on the basis s/he is unfit to practise;

79. Students on the MB ChB programmes who are deemed unfit to practise may be considered by the MB ChB programme Board of Examiners for the award of the BMedSci subject to their academic progress.

80. The Panel may, where there is a duty to do so or a requirement under UK law, disclose any information arising from these procedures, or details concerning the outcomes of the consideration of cases to professional, statutory or regulatory bodies, or law enforcement officers, or to any NHS Trust or Social Services department.

81. Where a medical student is found by a Panel to be unfit to practise and is excluded from the Medical School, or withdraws voluntarily from the Medical School and is subsequently found by a Panel to be unfit to practise, his or her details will be passed to the Medical Schools Council for inclusion on the Medical Schools Council Excluded Students Database.
Appeals

This procedure is allied to Senate Regulation 11 – regulations governing student discipline. All general and procedural rules set out within Senate Regulation 11 apply to this procedure.

1. In determining the outcome of all allegations of student misconduct and/or of fitness to practise under these regulations, the burden of proof for finding the offence proven shall be the balance of probabilities.

Appeals against Stage One decisions of Fitness to Practise Panels

2. Students have a right of appeal against the “Stage One” decisions of a Fitness to Practice Panel. Appeals must be submitted to the Secretary of the Senate Student Discipline Committee within ten working days of notification of the “Stage One” decision.

3. Submissions by students must include the grounds for the appeal. For an appeal to be considered there must be at least one of the following grounds:

(a) that evidence put to the Fitness to Practise Panel was not fully and properly considered;

(b) that there was procedural irregularity in the conduct of the consideration of the case at Stage One by the Fitness to Practise Panel;

(c) that there was prejudice and/or bias and/or the appearance of prejudice and/or bias in the conduct of the Stage One process by the Fitness to Practise Panel;

(d) that the penalty imposed was excessive;

(e) that there is new information to be put forward that was not known to the Fitness to Practise Panel and that there was good reason why this was not presented during the Stage One process.

4. If a student decides to make an appeal, s/he must also state whether the appeal is made against the finding, the penalty imposed, or both the finding and the penalty.

“Stage Two” Appeals against “Stage One” decisions: initial consideration

5. The Secretary to Senate Student Discipline Committee will review each appeal received, and will check whether it has been submitted within the specified time limit or whether there is good cause to account for submission outside the specified time limit. If the appeal is accepted by the Secretary to Senate Student Discipline Committee, the student will be informed of this within 5 working days of receipt. If the appeal is determined to be out of time without good cause, the student shall be informed that s/he has no further right to appeal within the University.

6. The Secretary to Senate Student Discipline Committee shall refer the appeal to the Chair of the Senate Student Discipline Committee who will appoint a member of the Senate Student Discipline Committee to be the ‘designated member’. The designated member will not have had previous involvement in the case.

7. The designated member of Senate Student Discipline Committee shall review the appeal submission and documentation relevant to the “Stage One” decision. The designated member may determine one of the following:

(a) that the appeal does not demonstrate sufficient new evidence, complexity or uncertainty regarding the facts of the case to merit a full hearing of the appeal and that the original “Stage One” decision should stand. In this case the designated member will dismiss the appeal without a hearing and without further right of appeal within the University and the original “Stage One” decision shall stand;

(b) that there is clear evidence that there was procedural irregularity in the consideration of the case at “Stage One”, or that the Stage One penalty was excessive. In this case, the designated member
will take action to remedy the procedural irregularity or to reduce the penalty. Provided that there are no further procedural irregularities in this part of the process, there shall be no further right of appeal within the University;

(c) that there is sufficient new evidence and/or complexity and/or uncertainty regarding the facts of the case to merit a full hearing of the Stage Two appeal.

8. The student shall normally be informed by the Secretary to Senate Student Discipline Committee of the outcome of initial consideration of his or her appeal within 15 working days of receipt. The notification of outcome shall set out reasons for the initial decision at Stage Two.

“Stage Two” Appeals against “Stage One” decisions: panel hearings

9. If it is determined (under paragraph 7c above) that an appeal should be taken to a full hearing of the appeal, the Chair of the Senate Student Discipline Committee shall approve the Chair and members to be appointed to a Fitness to Practise Appeals Panel constituted in accordance with these regulations. Any member appointed to a Student Discipline Panel who considers that there is or that there is the appearance of a conflict of interest or compromise in their serving on a particular Appeals Panel shall notify the Secretary to the Senate Student Discipline Committee who will refer the matter to the Chair of the Senate Student Discipline Committee who will determine whether a replacement Panel member should be appointed.

10. Members of any previous Panel and any Authorised Officer who has previously determined an outcome under these regulations shall not be eligible to sit on the subsequent Appeals Panel considering the same case.

11. Where the decision under paragraph 7(c) above was to proceed to a hearing, the designated member who made this decision shall normally chair the subsequent Fitness to Practise Appeals Panel.

12. The Secretary to the Senate Student Discipline Committee shall appoint a Secretary to each Fitness to Practise Appeals Panel. The Secretary shall act as note-taker and shall advise the Appeals Panel regarding procedural matters.

Procedures for Hearings of Fitness to Practise Appeals Panels

13. The Secretary to the Fitness to Practise Appeals Panel shall send to the student required to appear before the Panel a written summons stating:

(a) the nature and grounds of the appeal;

(b) the date, time and place of the hearing;

(c) the mode and membership of the Panel;

(d) the name of the person (if any) who will present the case against the student and, as far as is practicable, the names of any witnesses who are already expected to be attending the hearing;

(e) the information on the order of proceedings in hearings set out in these regulations below;

(f) notice that the Appeals Panel: (i) shall receive and consider all the written evidence which was before the Panel at the original hearing and that the Secretary may invite to appear before it all witnesses who gave evidence at the original hearing; (ii) may also permit the presentation of such further evidence and the attendance of additional witnesses as it deems appropriate;
(g) the right of the Appeals Panel to proceed in the student's absence or to determine that the appeal is abandoned and to confirm as a consequence the original decision without further hearing if, having been give due notice of the date of the hearing and sufficient notice of the documentary evidence available to the hearing, the student fails to attend the hearing;

(h) confirmation of the Appeals Panel's intention to consider/not consider at the hearing any additional evidence brought by the student forming part of his or her initial appeals submission.

14. This summons shall provide not less than 5 working days’ notice of the meeting of the Appeals Panel.

15. The student may choose to be accompanied by a member of their family, a personal friend (all referred to hereon as “the friend”), a current member of the University (staff or student), or by someone from the relevant professional association (all referred to hereon as “the representative”). For the purpose of this procedure, “someone from the relevant professional association” is defined as a representative of the Medical Protection Society, Medical Defence Union, the Medical and Defence Union of Scotland or similar medical defence organisation, the British Association of Social Workers, the British Psychological Society, or the College of Operating Department Practitioners. A representative may undertake the presentation of the case on behalf of the student, providing that the student is present. A friend may not do so. It is the responsibility of the student wishing to be accompanied to inform his or her friend or representative of the date, time and place of any meeting or hearing. The student shall, where possible, notify the Secretary to the Appeals Panel of the name of any friend or representative who will be accompanying him or her at least two days before the date of the hearing or meeting. The ruling of the Chair of the Appeals Panel on any point of procedure relating to the conduct of the Panel shall be final.

16. Where s/he determines that the nature of the case requires it, the Chair of the Appeals Panel may require the attendance of a representative of the student’s academic department to present the case against the student.

17. The Chair of the Appeal Panel may request or admit as evidence any additional written information which s/he deems relevant to the case. The Chair shall, in particular, determine whether the admission of information on the student’s previous academic or disciplinary record is relevant to the case.

18. If the student wishes, s/he may, prior to the hearing, provide the Secretary to the Appeal Panel with a statement concerning the allegations, and/or any additional supporting evidence relevant to the case and/or information about any mitigating factors which the student considers should be taken into account. Information relating to any mitigating circumstances should wherever possible be supported by documentary evidence.

19. All written evidence made available to the Appeals Panel will also be made available to the student and the person (if any) presenting the case against the student, wherever possible in advance of the hearing.

20. The Appeals Panel may determine that some or all of the written evidence should be made available to each witness. The Chair may determine that a hearing should be postponed or adjourned if any written evidence is supplied without sufficient notice for it to be circulated and properly considered by all relevant parties.

21. The student required to appear before the Appeals Panel, the person (if any) presenting the case against the student, and the Chair of the Appeal Panel may nominate witnesses to attend the hearing. The purpose of calling for witness evidence is to inform the Appeals Panel’s deliberations. The Chair of the Appeals Panel’s decision as to whether to accept a nomination is final. Where practicable, the Secretary to the Appeal Panel shall inform all parties of the identity of any witnesses in advance of the hearing. It is the responsibility of the party calling the witness to ensure their attendance at the hearing, except where the witness is a member of the public. If the
witness is a member of the public (being neither a student nor member of staff of the University) the party calling the witness must inform the Secretary as soon as possible of this request. The Secretary will issue the witness with an invitation to attend, making clear who has requested their evidence and explaining the procedures. The Appeals Panel reserves the right to proceed in the absence of any particular witness and the ruling of the Chair of the Appeals Panel in this matter shall be final.

22. All parties shall have an opportunity to ask questions through the Chair of all witnesses called. The party calling the witness will normally ask the first questions of the witness.

23. The ruling of the Chair of the Appeals Panel shall be final on the admission of all evidence for consideration by the Appeals Panel, including the admission of written evidence and of oral evidence from witnesses or other parties at the hearing. This shall include the power to refuse to admit evidence or hear witnesses on the basis of lack of relevancy.

24. A hearing by an Appeals Panel shall be held in closed session.

25. The student appearing before the Appeals Panel shall inform the Secretary of his/her intention to be accompanied by a friend or representative at least two working days before the hearing. Where practicable, the Secretary to the Appeal Panel shall inform all parties in advance of the hearing of the identity of any friend or representative who will be in attendance.

26. The Appeals Panel shall receive all the written evidence which was before the original Fitness to Practise Panel at the original hearing and the Secretary may invite to appear before it any witnesses who gave evidence at the original hearing. It may also permit the presentation of such further evidence and the attendance of additional witnesses as it deems appropriate.

27. The appeals hearing shall proceed as follows:

(a) the student (or person representing him or her) shall present his or her appeal and evidence for the appeal, answer questions from the Appeals Panel and the person (if any) presenting the University’s case and call witnesses; where a student’s representative presents the case the student will be expected to answer questions from the panel;

(b) the person (if any) presenting the case against the student shall briefly set out the allegations and evidence in the case, answer questions from the Appeals Panel and student in relation to the grounds for appeal;

(c) the Appeals Panel may call any witnesses not called by the other parties;

(d) the presentation of any closing statement by the person (if any) presenting the case against the student;

(e) the presentation of any closing statement by the student (or person representing him or her).

28. The student will be informed in writing by the Secretary to the Appeals Panel of the Appeals Panel’s decision in respect of the appeal, including reasons for that decision, normally no more than 5 working days following the appeals hearing. The Secretary to the Appeals Panel shall copy this communication to the student’s Head of Department and the person (if any) presenting the case against the student at the hearing.

Outcomes of Hearings of Student Discipline Appeals Panels

29. Having considered all the evidence presented, the Fitness to Practise Appeals Panel shall determine one of the following outcomes to the Appeal:

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(a) confirm the decision(s) of the original Fitness to Practise Panel;
(b) substitute a lower penalty except that, in so doing, the new, lower penalty must be consistent with precedent;
(c) find that the original outcome was unsafe in part and find the student culpable of a lesser offence and impose a lesser penalty;
(d) determine that the original outcome should be wholly overturned, exonerate the student and remove any penalty previously imposed;
(e) determine that the circumstances of the case require a new hearing by a new Fitness to Practise Panel, of which the membership will have had no previous involvement in the case.

30. Where the Appeals Panel concludes that mitigating circumstances have been presented which are relevant to the appeal and should be taken into account in determining a new penalty, the new penalty shall be determined according to precedent. In determining whether particular circumstances are relevant, the Panel will take into account whether the circumstances have previously been disclosed in a timely manner, as required under the University’s Regulations.

Further right to appeal

31. Following completion of “Stage Two” there is no further right to appeal within the University. Students who are dissatisfied with the outcome of the disciplinary process may submit their concerns to the Office of the Independent Adjudicator for Higher Education (OIA), once all internal University procedures have been completed.

Appendix A: composition of Fitness to Practise Appeal Panels

- A Chair, who shall be a member of Senate Student Discipline Committee
- One member of the senior staff of the University, who will be a member of academic staff
- One external representative who will be a senior member of the relevant profession
- Where appropriate* One external lay member who is not a member of the relevant profession nor a member of University staff or any University body

*For the MBChB programme

The Chair and members of the Fitness to Practise Appeals Panels shall have had no association with the teaching of the student before the Appeals Panel nor shall they be the same persons who heard the original case. Wherever possible, the Panel shall be constituted with due regard to the need to ensure equality of representation.