Definitions

There is the potential for confusion between three apparently similar terms, “fitness to study”, “fitness for practice” and “fitness to practise”. This guidance explains the meaning and the implications of these terms.

Fitness to study means “medically well enough to participate and engage in a programme of study”. It is a medical judgment. In theory, this is a judgment that might lie within the capacity of any treating doctor, whether a general practitioner or a specialist, provided the doctor concerned has sufficient knowledge of the patient, the condition that is being treated, the response to that treatment, the degree of co-operation and adherence to treatment by the patient, and the prognosis. In some situations, for example a student recovering from tonsillitis, or a student recovering from the removal of an appendix, these are simple judgments that (in these two examples) will probably lie within the ambit and expertise of the student’s general practitioner and the surgeon respectively.

There are two unstated but inherent assumptions in these two simple illustrations. One is that the student is generally healthy and does not suffer from a pre-existing health problem or disability. The other is an assumption that the programme of study involves straightforward conventional study tasks such as participating in tutorials, attending lectures, using the library, using a computer, reading books and journals, writing essays and dissertations, and attending practical classes.

The situation becomes considerably more complex when there is a pre-existing health problem, whether a physical problem or a mental health problem. It also becomes more complex when the programme of study involves exposure to patients, as is the case in those studying medicine or the ODP School. In these situations, a medical assessment as to whether a student is medically well enough to participate in a programme of study is likely to be made by a doctor who has specialist training and experience in providing such assessments, namely an occupational health specialist. The assessment is more complex when a student is working with patients, clients or service users because it requires the occupational health doctor to consider not only the health of the student, but also the welfare of the patients. Ultimately the University has a responsibility to patients, when its students come into contact with these individuals as part of their education programme. The public interest has three components, protecting individuals and maintaining safety, maintaining public confidence in the relevant profession and in the University’s capacity to provide adequate supervision, and upholding and maintaining professional standards. Thus it is that the Schools within the College rely heavily upon the input, expertise and medical advice of the Occupational Health Department when it comes to assessing whether or not a registered student is medically well enough to participate in a programme of study. See HEOPS document on Medical Students Fitness Standards.

When decisions about fitness to study are being made, the University has a legal responsibility (Equality
Act 2010) to consider and provide reasonable adjustments for any student qualifying as disabled under the act. Such adjustments are aimed at providing help for such a student to fulfil the core competencies of the course (as defined by the Medical School, based on the requirements of the professional regulatory body). The legislation makes it clear that there is no legal requirement to make adjustments to the required core competency standards themselves.

If the Occupational Health Department has concluded that a student whose programme of study involves exposure to patients, is not fit to study, it follows that the student’s studies must be interrupted. Such students can only return to the programme once the Occupational Health Department is able to certify that the student is fit to study.

**Fitness for practice**, a term which has sometimes been used, is taken to mean “medically well enough for a student to participate in a placement involving patients, clients or service users”. In the case of a medical student for example, this refers to being medically well enough to go on hospital or community based placements. As with “fitness to study”, this is a medical judgement. The difference between the terms is that the word “study” does not differentiate between working in a classroom and going out on a placement, whereas “fitness for practice” plainly refers to a clinical situation rather than a classroom situation.

‘Unfit to study’ and ‘unfit for practice’
For most programmes, these two terms will have the same implications, namely that the student’s studies, which involve exposure to patients, will have to be interrupted. The main exception could be a programme in which there is a separate “theory” classroom component. Thus one could envisage a situation in which it would be unsafe for a student to go on placements involving patients, but the student could nevertheless participate in classroom study or work on a dissertation.

**Fitness to practise** is less easy to define. This is partly because of the range and complexity of the different tasks undertaken by different health and social care professionals, and partly because one is applying the term to students who are still in training rather than to qualified and registered professionals. A purist might say that by definition, no student who has yet to complete a programme of study is fit to practise. Leicester Medical School’s Fitness to Practise regulations, which is the set of regulations governing the work of the Fitness to Practise Committee, does not define the term “fitness to practise”. The procedure explains in its opening paragraph that it has been established to deal with student-related fitness to practise issues and to comply with the requirements of professional/regulatory bodies. It is therefore a framework that has been established to enable the University to deal with conduct and health problems that “may render a student not fit to be admitted to and practise that profession or calling”.

Clearly there is a potential for overlap, in that a health problem might have the dual effect of making a student both unfit to participate in a programme of study and also unfit to be admitted to that profession.

Whilst qualified health and/or social care professionals may well have contributory observations, comments and concerns about a student’s fitness to practise, information that no doubt will be shared with the Medical School, unlike fitness to study, the process whereby the fitness to practise of a student is decided is **not a medical decision** but is a matter that can only be determined by the Fitness to Practise Committee. The Faculty’s Fitness to Practise procedure sets out the methodology to be employed by the Fitness to Practise Committee when a student’s fitness to practise has been called into question, and the procedure carefully defines the powers of the Committee.

This guidance refers to current students; there is separate University guidance for applicants who are subject to differing processes and assessments.

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The Medical School has produced separate guidance on “Student Fitness to Practise: Co-operation with Medical Assessments and Disclosure of Specialist Reports”. This explains that because of the need to protect patients, failure to co-operate with assessment of health is likely to lead to interruption of studies.

**Student Fitness to Practise: Co-operation with Medical Assessments and Disclosure of Specialist Reports**

**Introduction**

When a student is referred to the Fitness to Practise Committee, the student remains entitled to choose not to disclose specialist reports about their health to the Fitness to Practise Committee.

The purpose of this guidance is to explain the possible implications of not co-operating with an assessment of health or a decision to withhold consent for disclosure of a specialist report to the Committee.

**Background**

Where a programme of study requires the student to undertake training in a quasi-professional role in relation to patients, clients or service users, the University has a duty to protect patients, clients or service users and to comply with the requirements of professional regulatory bodies.

On occasions, the Medical School will be sufficiently concerned about the health of a student to refer that student to the Occupational Health Department. The question inherent in such a referral is whether the student is medically fit to participate in a programme of study; in some cases there may also be concerns about the student’s fitness to practise.

For advice to be provided, the Occupational Health Department will need to see the student by appointment at the Occupational Health Department on one or more occasions, tests (for example screening for drug or alcohol abuse) may be required, and the Occupational Health Department may require medical information to be provided by one or more professionals who are or have been treating the student.

In some cases, in order to provide a medical opinion, the Occupational Health Department may require the advice of an independent specialist, in which case the Occupational Health Department will need to make a referral to the independent specialist. A fundamental principle is that the choice of the independent specialist is a matter solely for the Occupational Health Department; the principle of independence is lost if the choice is made by the Medical School or the student. It is likely that the independent specialist will need to be local to the University, so that the specialist can advise about suitable treating physicians in the locality of the University. The cost of the specialist’s report will be met by the Medical School.

**Failure to co-operate**

Most students fully co-operate with the necessary assessment and reporting processes, recognising the fundamental importance of assessing health and wellbeing and fitness to practise in health and social care students.

However, failure to co-operate may arise in a number of ways, including:

- failing to co-operate with any required testing process (e.g. for drugs or alcohol abuse);
• being unwilling to agree to disclosure of medical information to the Occupational Health Department or to an independent specialist;

• being unwilling to be referred to an independent specialist; and/or

• being unwilling for a report (from the Occupational Health Department or from an independent specialist) to be fully disclosed to the Medical School Fitness to Practise Committee.

The implications of non-cooperation
1. The immediate effect may be that the Department of Occupational Health will be unable to provide advice about whether or not the student is medically fit enough to participate in the programme of study. In this situation, a report will be sent to the Medical School indicating that because of lack of co-operation, a medical opinion about the student’s fitness to study cannot be provided.

2. If the Medical School is sufficiently concerned about a student’s health to refer that student to the Occupational Health Department to see if the student is medically fit to study, and if the student fails to co-operate thereby preventing a medical assessment, then as far as the protection of patients, clients and service users is concerned, it is likely that an inference will be drawn that the student is currently unfit to study.

3. Whilst the advice of the various health and social care regulators varies, there are some general principles that must be borne in mind:

• a student’s own poor health may put patients, clients, service users, colleagues or themselves at risk;

• students must seek medical or occupational health advice, or both, if there is a concern about their health, including mental health;

• students must accept that they may not be able to accurately assess their own health and be willing to be referred for treatment and to engage in any treatment programmes; and

• given the over-riding need to protect patients, clients and service users, a health or social care student who is unwilling to fully co-operate with a medical assessment of fitness to study is, as a result, likely to raise concerns about his or her fitness to practise, which may ultimately necessitate suspension of studies and/or referral to the Fitness to Practise Committee.

Implications where a student has been referred to the Fitness to Practise Committee
The University of Leicester Fitness to Practise regulations state that prior to consideration of his/her case by the Committee on Fitness to Practise, a student may be required to attend the Occupational Health Service in order that a report can be made on his or her fitness for practice on medical grounds. The report will be sent to the Committee Secretary and copied to the student and the Head of Department.

In most students, health conditions and disabilities will not raise fitness to practise concerns, provided that the student receives and co-operates with the appropriate assessment and care and has in place the reasonable adjustments necessary to study and work safely in a clinical environment.

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However, in a case where health concerns have caused the Medical School to question a student’s fitness to practise, and to refer the matter to the Fitness to Practise Committee, then that Committee will require full and unrestricted access to the report of the Occupational Health Department and any independent specialist report commissioned by the Occupational Health Department. The Committee will need these reports in order to determine whether a student’s health poses a present or future risk to patients, clients and service users, or themselves and to ensure that the University fulfils its duty to provide support and make necessary reasonable adjustments in the case of a student with a disability. Without access to these reports, the Committee will not be able to make a final decision about a student’s fitness to practise, and the inevitable uncertainty about the student’s health is likely to prevent the student continuing on the programme.

In the case of medical students, there are two additional points to be made. The second point may apply to other students, particularly ODPs, at the point they seek registration with their professional regulator.

1. It is a requirement of the General Medical Council that only medical students who are fit to practise are allowed to graduate and gain provisional registration with a licence to practise (Tomorrow’s Doctors, September 2009, paragraph 37 page 35). All medical schools were specially reminded of this requirement in a letter sent by the Chief Executive of the General Medical Council in March 2013. It follows that in a case where a Fitness to Practise Committee is unable to determine a medical student’s fitness to practise, the University could not allow that student to graduate.

2. When graduating medical students seek registration with the General Medical Council, they are obliged to disclose if the Medical School or University has ever taken any form of disciplinary action and/or Fitness to Practise procedures against them. If the answer is yes, in such cases the GMC usually requests sight of the full case papers, which would include copies of medical reports prepared by Occupational Health Department and any independent specialist. Unwillingness to disclose such reports to the General Medical Council might prevent it from making a decision about registration.

Confidentiality of medical reports
Students may well be concerned about this. They may be reassured to know that whilst the Fitness to Practise Committee will require full and unrestricted access to reports by the Occupational Health Department and any independent specialist commissioned by the Occupational Health Department, then other than the Head of Medical Education and the Director of Undergraduate Medical Education there is no requirement for these reports to be disclosed to other University staff outside of the Occupational Health Department.

Advice and support
Students with any concerns should be encouraged to seek advice from the student support services within the Medical School (including for clinical medical students their base hospital), or their medical defence organisation, or the University of Leicester’s Students’ Union.

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