



**REGENT'S**  
UNIVERSITY LONDON

# **Fitness to Practice Policy**

**Owned by: Head of Student Services**

**Approved by: Senate on 22nd October 2014**

**Version: 1.2 Updated to Reflect Organisational changes August 2017**

## **Fitness to Practice Policy**

### **1. Aims & objectives**

In addition to meeting the learning outcomes of their programmes, applicants and enrolled students must satisfy the University that in respect of their health and conduct they do not constitute a risk to patients or professional clients and meet the requirements of professional bodies.

This policy is intended to incorporate the principles of natural justice and procedural fairness and shall be conducted in reference to the guiding principles below (2).

### **2. Guiding Principles**

- a person making a decision in a case should declare any personal interest they have in the proceedings;
- a person who makes a decision should be unbiased and act in good faith;
- proceedings should be conducted so that they are fair to all parties;
- each party should be given the opportunity to ask questions and contradict the evidence of an opposing party;
- a decision maker should take into account all relevant considerations and extenuating circumstances and ignore any irrelevant considerations;
- justice should be seen to be done.

### **3. Policy statement**

This policy is applicable to:

Any applicant for or student enrolled on a programme of study offered at Regent's University London which leads directly to, or which satisfies a necessary condition of a professional qualification, and/or which gives the right to practice in one or more professions.

### **4. Implementation of this policy**

This policy will be available on the University Intranet and must be included in the Programme Handbook for all programmes where it is applicable. It is the responsibility of all staff particularly those coming into regular contact with students studying on those programmes for which this Policy is applicable to take appropriate action if in their judgment there is sufficient cause(s) for concern as outlined in this policy to seek to implement it by reporting it to their line manager who in turn is required to notify the Vice Chancellor in writing of such concerns as outlined in 5.2. It is the role of the Head of Student Services to monitor the adherence to this policy. The appeals process is outlined in Appendix 4

## **5. Procedure and Process**

### **5.1 Introduction**

When necessary, action should be taken under Fitness to Practice Policy (FTPP) to:

- Protect present or future patients, service users or clients;
- Protect the institution and subsequently the University against a legal suit brought by someone claiming to have suffered loss or harm as a result of a student proving after qualification to be unfit to practice;
- Ensure students do not waste time and money seeking a qualification for which they are not suited;
- Comply with the requirements of professional bodies.

In all cases a student will be presumed to be innocent of any allegation until proven otherwise.

Confidentiality will be maintained in all proceedings unless the Vice-Chancellor directs otherwise.

### **5.2 Preliminary Investigations**

Any concerns that a student enrolled on a programme coming under the scope of this policy may have acted in a way, or may have a physical or mental health problem, which may render that student unfit to practice should be made to the Vice-Chancellor in writing. The person who makes the information known should identify himself or herself. In exceptional circumstances the Vice-Chancellor may allow the person offering the information to remain anonymous, providing that this will not prejudice proceedings. Details of the procedures for a preliminary investigation are in Appendix 1. Examples of conditions that may lead to a student to be unfit to practice are in Appendix 5.

### **5.3 Fitness to Practice Panel**

On receipt of a referral by the Preliminary Investigation Panel (see Appendix 1), the Vice-Chancellor shall arrange for an appropriate Fitness to Practice Panel to be convened as soon as possible, normally within 6 working weeks of the case being referred, and for a member of the Academic Registry to act as Secretary to the Panel (see Appendix 3). The FTP Panel will have a range of penalties at its disposal (see Appendix 4) and appeals processes (see Appendix 4).

## **6. Measurement of policy's success**

The measurement of the Policy will be measured by the adherence to the timelines outlined in the policy, the number of successful appeals based on a failure to carry out the policy as outlined in this document in future agreed revised versions.

## **7. Monitoring of the policy**

The policy will be monitored by the Head of Student Services and an annual report will be produced for the Senate Learning and Teaching Committee. Where appropriate some details may be redacted on the grounds of confidential or medical data.

## **8. Review of the policy**

This policy will be reviewed by the Senate Learning and Teaching Committee. The review is to be undertaken by the Head of Student Services.

## **Appendix 1**

### **Preliminary Investigations Procedures**

- On receipt of a report such as that described in 5.2 the Vice-Chancellor should normally review the case within five working days and decide whether the concerns raised should be dealt with.
- Where it is considered that misconduct may have taken place or that relevant health problems exist, this shall be the subject of a preliminary investigation. The investigation will be carried out by a panel comprising of the Assistant Deans, Heads of Programme or Dean / Director concerned or his/her nominee and a senior academic, where possible, from another department. The Vice-Chancellor shall nominate a secretary to the panel. The preliminary investigation should normally have taken place and a decision been reached within one month of the receipt of the report by the Vice-Chancellor.
- Preliminary investigations shall consist of an informal interview with the student by the panel. No fewer than five working days in advance of the interview, the student shall be informed in writing by the secretary to the panel of the details of the alleged misconduct or health problems and shall be provided with a copy or details of any report which may have been provided to the Assistant Dean or Head of Programme. The student will also be notified of the date, time and location of the interview and of his/her entitlement to be represented or accompanied by a friend, adviser or representative who may speak on their behalf but may not be a solicitor or barrister acting in a professional capacity. Any person accompanying and/or representing the candidate shall be asked by the panel to identify themselves at the beginning of the proceedings and may be invited by the panel during the hearing to speak in reference to the case. A candidate who intends to be accompanied and/or represented shall inform the secretary of the name of the person accompanying and/or representing him/her in writing in advance of the meeting.
- The purpose of the preliminary investigation will be to determine whether a prima facie case exists. The secretary to the panel shall provide a report of the panel's findings, detailing the outcome of the preliminary investigation.
- Following such a determination the panel shall have discretion to:
  - dismiss a complaint;
  - (where appropriate) ask the Head of Student Services to consider taking action under the Student Disciplinary Policy
  - refer the case to a Fitness to Practice Committee.
- Within 5 working days of the preliminary investigation taking place, the candidate will be notified in writing of the decision reached by the panel and any subsequent action to be taken.

## Appendix 2

### The establishment and procedures of a Fitness to Practice Panel

- The Fitness to Practice Panel shall normally consist of three members selected by the Vice-Chancellor from amongst the academic staff. Normally the Panel will comprise a senior academic relevant to the candidates' programme and two other members of academic staff. Where possible these persons will not have been associated with the teaching of the candidate. Members of the Fitness to Practice Panel shall not have been involved in the preliminary investigation. The Chair of the Panel shall be designated by the Vice-Chancellor from amongst the three members of the panel. Where it is deemed helpful to do so, an appropriately experienced person from a professional body may be appointed as an adviser to the committee at the University's discretion.
- Meetings of the Fitness to Practice Panel shall normally be held on the Regent's University London Park Campus unless alternative arrangements have been agreed with the University.
- As soon as reasonably practicable after the appointment of the Panel (and bearing in mind the expectation that such cases should be heard normally within six working weeks of the referral being communicated to the candidate) the secretary to the Panel shall:
  - notify the Chair and members of the Fitness to Practice Panel of the date, place and time of the meeting and supply them with copies of the referral and of any statements or documents;
  - inform the candidate of the date, place and time of the Panel meeting and that he/she has the right to be represented or accompanied, to hear all the evidence, to call and question witnesses and to submit other evidence;
  - send to the candidate copies of statements of witnesses and of documents to be placed before the committee, and offer the candidate an opportunity to indicate any statement or documents which may be in dispute.
- Documentary evidence shall be sent by the candidate to the Vice-Chancellor or nominee prior to the date of the meeting and circulated to members of the Panel. Any further evidence made available on the date of the meeting may be presented to the Panel at the discretion of the Chair.
- The candidate shall be required to inform the secretary as to whether or not he/she intends to attend the meeting of the Panel. Should the candidate indicate that he/she does not wish to attend the meeting, the committee will proceed in his/her absence. In such a case the student may elect to be represented at the meeting. Where no response is received from the candidate there may be one postponement of the Panel pending to establish whether the candidate has received the communication.
- A candidate who intends to be accompanied and/or represented shall inform the secretary of the name of the person accompanying and/or representing him/her in writing in advance of the meeting. The candidate will have been notified of his/her entitlement to be represented or accompanied by a friend, adviser or representative who may speak on their behalf but may not be a solicitor or barrister acting in a professional capacity. Any person accompanying and/or representing the candidate shall be asked by the Panel to identify themselves at the beginning of the proceedings and may be invited by the Panel during the hearing to speak in reference to the case.
- Should a candidate not attend the meeting of the Panel, having previously indicated to the secretary that he/she would attend, the meeting shall proceed in his/her absence provided that all reasonable means have been taken to contact the candidate.
- A member of the Preliminary Investigation Panel shall be appointed by the Vice-Chancellor to present the case against the candidate, calling such witnesses and presenting such evidence as

he/she thinks fit. Additional documentary evidence in support of the case against the student may only be presented to the Panel on the day of the hearing, at the discretion of the Chair.

- Members of the Fitness to Practice Panel may ask questions of the candidate, the member of the Preliminary Investigation Panel presenting the case and of the witnesses. The candidate may question the witnesses called by the Preliminary Investigation Panel.
- The candidate shall have the right to hear all the evidence brought against him/her, to call and to question witnesses, and to submit other evidence. Additional documentary evidence may only be presented to the Panel on the day of the hearing at the Chair's discretion. The Chair may invite contributions from the person accompanying the candidate; this person may not otherwise speak, or question witnesses or present other evidence.
- Witnesses shall be concerned only with evidence relating directly to the case and shall normally withdraw after questioning. The Chair may wish to consider allowing witnesses to remain in the hearing throughout the submission of evidence. The agreement of both parties to this shall be obtained in advance of its occurrence.
- When the submission of evidence and the questioning of witnesses are completed, all persons other than the members of the Panel and the Secretary, shall withdraw.
- The Chair of the Panel may agree to an adjournment of the hearing following a reasonable request from any party.
- The Panel shall then consider whether a case for unfitness to practice may exist and if so what penalties should be imposed. When making a decision, the Panel may take into consideration any penalty previously imposed on the candidate for breach of a University regulation. The Panel may also take into consideration any medical or character assessments and call for a background report from the Assistant Dean or any other records pertaining to the candidate.

### **Appendix 3**

#### **Penalties available to the Fitness to Practice Panel**

- On reaching a decision the Panel shall then consider whether any penalty should be imposed. Penalties may include:
  - permitting the candidate to continue with the programme under close supervision and/or specified conditions;
  - suspending the studies of the candidate for a specified time with conditional return;
  - recommending any other action considered appropriate and reasonable by the committee to enable the candidate's successful completion of the remainder of the programme;
  - requiring that the candidate's studies on a programme leading to a professional qualification be terminated, but recommending instead enrolment for an alternative programme at an equivalent level;
  - requiring that the student studies on a programme be terminated and that his/ her enrolment as a student should cease.
- Where it proves impossible to allow a candidate to continue his/her course of study because the candidate is deemed incapable of completing it and will therefore not be fit to practice, the student's registration may be suspended and every effort should be made to offer an appropriate alternative course of study.
- Where registration is permitted to continue under specified conditions, the school or department will monitor progress and report any failure to meet the conditions set to the secretary of the Fitness to Practice Panel.
- Any decision of the Fitness to Practice Panel should be communicated to the candidate within 5 working days specifying any action to be taken.



## Appendix 4

### Appeals

- The University is only prepared to consider appeals which are based on one or both of the following grounds:
  - irregularities which occurred under the Fitness to Practice procedure, which are of such a nature as to cause reasonable doubt whether the Panel would have reached the same decision had they not occurred;
  - exceptional personal circumstances which were not known to the Panel at the time that the candidate's case was considered, and which can be shown to be relevant to the suggestion of unfitness to practice. (In appeals based on these grounds the appellant must show good reason why such personal circumstances were not made known to the Fitness to Practice Panel before its meeting. Where a candidate could have reported exceptional personal circumstances to the Panel prior to its meeting, those circumstances cannot subsequently be cited as grounds for appeal.)
- Any appeal against a decision of the Fitness to Practice Panel (including any penalty imposed) shall be sent in full, in writing to the Head of Student Services and must reach him/her not later than one month after dispatch to the candidate of the committee's decision. Simple notice of appeal given in writing by a candidate within the above deadline shall not be deemed to constitute an appeal proper and shall not be accepted. The Chair shall, at an Appeal Panel meeting, have discretion to declare inadmissible any matter introduced by the appellant, or by any member of staff or student accompanying the appellant, if he/she deems it not directly related to the contents of the appeal previously lodged in writing within the stipulated deadline.
- On receipt of an appeal, the Head of Student Services, or his/her nominee, shall acknowledge receipt, normally within three working days and, where appropriate to the circumstances of the case, consult the Chair of the Fitness to Practice Panel and/or the Vice-Chancellor. The appeal will then be considered by the Head of Student Services, or his/her nominee. The appellant shall be provided with a written progress report within 25 working days.
- The Head of Student Services, or his/her nominee, is required to disallow an appeal normally within three months of its receipt if the appeal:
  - is based on factors which were known to the Fitness to Practice Panel when the penalty was imposed;
  - introduces information which was known to, and could have been reported by, the candidate prior to the meeting of the Panel.
- If it is decided by the Head of Student Services or his/her nominee that there is a prima facie case to be considered, he/she will:
  - call an Appeal Panel to hear the appeal.
  - The Appeal Panel membership:
    - (Chair) Dean or Institute Director from a Faculty/Institute other than that of the appealing student.
    - Senior Member of Student Services Department
    - Associate Dean of the Faculty of the appealing student
  - If any member of the Appeals Panel has been involved directly in the evidence gathered or by virtue of membership or as witness in the original Fitness to Practice Hearing then the Head of Student Services is to nominate an alternate of similar seniority within the University.

- The Appeal Board shall base its decision on the evidence of the appellant's submission and the testimony of the Chair of the Fitness to Practice Panel concerned, together with any further evidence which it considers relevant.
- The decision of the Appeal Board, and recommendations or advice where appropriate to the circumstances of the case, shall be conveyed by the Head of Student Services, or nominee as soon as possible to the appellant, the Chair of the Fitness to Practice Panel and to the Vice-Chancellor.

**The Appeal Panel shall be empowered to take one of the following decisions:**

- to reject the appeal;
  - to disallow the original penalty and to refer the case back to the original Fitness to Practice Panel for a review of the penalty imposed;
  - to require a new Fitness to Practice Panel to re-hear the case.
- Where a new Fitness to Practice Panel is required to re-hear a case, the membership of that Panel should be entirely different from that of the previous Panel. The new Panel shall not be provided with any evidence of any penalty imposed by the previous Panel, or details of any other matter discussed by the previous Panel or Appeal Panel, other than that it is re-hearing a case on appeal.
  - An obligation to hear the case on the basis of the facts presented before them at the hearing and not in the light of anything that they may have heard or discovered outside the Panel, shall be framed within any Terms of Reference applying to the Panel members.
  - The decision of the Appeal Panel shall be final in so far as the internal procedures of Regent's University London are concerned and the matter shall, thereafter, be regarded as the completion of the final part of the internal University procedure. The appealing student has the right to take their case to the Office of the Independent Adjudicator (OIA)

## **APPENDIX 5**

### **Examples of Circumstances that might render a Candidate Unfit to Practice**

These examples are not exhaustive and other cases may fall within the general definition of unfitness to practice.

- acting in a violent manner on or away from University premises;
- exploiting the vulnerability of a patient or professional client to establish a sexual relationship;
- chronic drug or alcohol abuse;
- offences against the vulnerable, including children, the elderly and the mentally incapacitated;
- conviction of a criminal offence;
- failure to rectify behavior that has been subject to any disciplinary actions under the University's regulations;
- any other circumstance which may call into question a student's fitness to be admitted to and practice their professional calling.