

FITNESS TO PRACTISE REGULATIONS

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INDEX

SECTION	PAGE
Introduction and Scope	3
Definitions	4
General Principles	
• Application of the Regulations	4
• Precautionary Suspension/Restriction	6
• Relationship of Fitness to Practise with other Procedures	7
• Fair Treatment	8
• Confidentiality/Disclosure of information	9
• Meetings or Hearings	10
• Submission of New Documentary Evidence	11
• Behaviour at Meetings/Hearings	11
• Recording of Proceedings	11
• Timescales and Communication	11
• Advice, Guidance and Support	12
• Monitoring and Evaluation	12
PROCEDURE:	
Initial Investigation Stage	13
Stage One	14
Stage Two	16
Appeal Stage	21
Office of the Independent Adjudicator for Higher Education	26
APPENDICIES	
Appendix 1: List of Professional, statutory, regulatory bodies (PSRB)	27
Appendix 2: Non-exhaustive list of examples of areas of concern	27

INTRODUCTION AND SCOPE

The University is mindful of its obligations to safeguard public interest, for example, the protection of patients/clients and children and/or vulnerable adults, maintenance of public confidence in professions and upholding proper standards of health and/or conduct. As such, these regulations apply to students enrolled on a Teesside University award, which leads to a professional qualification that is registerable with a Professional, Statutory, or Regulatory Body (PSRB).

Issues considered under these regulations include those relating to a student's health and/or conduct, which may affect their fitness to practise in their relevant profession. The regulations apply at all times where a student may be regarded as under the auspices of the University and include periods of professional placement or work-based learning experience. Concerns may be brought to the University's attention by any person(s) or organisation(s). There may be localised processes in Schools or Collaborative Partners for reporting issues from placement providers, and these concerns, which merit attention, will be considered under these regulations. The impact of any concerns about a student's fitness to practise will be decided in the context of their PSRB.

These regulations reflect the professional conduct/code/standards of the relevant PSRBs with which the University works. Each PSRB has specific requirements in relation to fitness to practise, which must be met. A list of these bodies is provided at appendix 1. PSRBs may be added or removed from appendix 1 on application to the University Secretary, or nominee. Any suggested amendments should be sent to the Office of Student Complaints, Appeals and Regulations (OSCAR) in the first instance.

These regulations are established under the auspices of the Teesside University Articles of Government, paragraph 12.2.

These regulations are definitive, and Schools or Collaborative Partners have no authority to alter or modify them. They are supported by an appropriate set of standardised documentation.

The University Secretary, or nominee, may establish amended appendices. Such amended appendices will be reported to the following meeting of the Academic Board.

Students will normally obtain information on their respective professional code/standards during induction sessions, general course curricula, in their learning environment, and School/Collaborative Partner and Course Handbooks. All students on courses subject to these regulations are expected to have familiarised themselves with their relevant professional code/standards and how to meet their requirements. Students are expected to adhere to the relevant professional codes/standards in both their professional and private lives, including on-line activity and social networking. Students should not engage in any conduct which renders them unfit to practice the relevant profession.

Concerns relating to the operation of these regulations must be considered in accordance with the Appeal Stage established by these regulations. Concerns cannot normally be investigated using the University's Student Complaints Policy and Procedure and/or the University's Academic Appeal Regulations.

Decisions made under these regulations cannot be changed by an Assessment Board.

DEFINITIONS

1. The term 'staff' used in these regulations covers both staff employed by Teesside University and staff employed at any of its Collaborative Partner.
2. Where delivery of part or all of a University award is undertaken by a Collaborative Partner:
 - 2.1 References to University in these regulations shall include Collaborative Partners;

and
 - 2.2 References to 'Schools' of the University, or 'Dean of the School' shall include 'Faculties' of Collaborative Partners and 'Heads of Faculty' respectively.
3. Within these regulations the University defines 'fitness to practise' to denote that a student is suitable in terms of meeting relevant standards of health and/or conduct to undertake study leading to eligibility to apply for registration with a PSRB.

GENERAL PRINCIPLES

4. **Application of the Regulations**
 - 4.1 Fitness to practise issues affecting admission are not dealt with under these regulations, and it remains the responsibility of a student when making an application to declare any relevant issues regarding their possible unsuitability for entry on to their course (for example, all convictions including cautions, reprimands or warnings, whether spent or not). Furthermore, consideration of suitability prior to commencing study is done through the UK Government's Disclosure and Barring Service (DBS) checks. Schools will have separate admissions processes in place to follow up issues arising from enhanced DBS disclosures, or a fitness to practise concern. The suitability of a prospective student's health may be assessed by health screening, which may include an occupational health assessment and, where appropriate, a workplace risk assessment. Where appropriate, reasonable adjustments will be considered for disabled applicants prior to admission.

- 4.2 University staff, who allege that a student is not fit to practise, should inform the Dean of the School, who will decide whether an investigation outlined in these regulations should be initiated.
- 4.3 Concerns relating to a student's fitness to practise may come to the attention of the University through a variety of means, for example, another student, the DBS, a placement provider, a client, a member of the public, or a member of staff. Students are also required to update the University whenever there is a change to their DBS status. Areas of concerns which may raise questions about whether a student is fit to practise cover a range of categories and some examples of these are set out in appendix 2.
- 4.4 Unprofessional conduct, as outlined in appendix 2, which takes place outside of the University or practice setting or health concerns will also be considered under these regulations.
- 4.5 If, during the consideration of a concern under these regulations, it raises the possibility that a criminal offence may have been committed, after taking any advice necessary, the matter may be referred to the police, in accordance with the University's Policy on Referral to Police or other relevant Authorities of alleged criminal offences (or equivalent process for a Collaborative Partner). In such cases, the University shall have the discretion either to consider the matter under paragraph 20 (Stage 2) in parallel with any police investigation or suspend the proceedings under these regulations until such time as the police have concluded their investigations or until such time as any criminal trial has been concluded. Where the proceedings under these regulations have been suspended by the University, the University reserves the right to resume consideration of the case under these regulations notwithstanding a decision by the police not to proceed for want of evidence or in the event of an acquittal following a criminal trial.
- 4.6 Where a student has received a custodial sentence for a conviction, the case will proceed on the same principles as those set out in paragraph 20 (Stage 2) in the student's absence. In such cases, students will be invited to make written representations in lieu of his/her attendance and have the right to submit questions to witnesses. Students will be advised, in writing, of the Stage 2 Panel's decision, and their right to submit an appeal in accordance with paragraph 26.
- 4.7 Where during the course a student's physical and/or mental health gives cause for concern that the student's ability to practise the particular profession is impaired, an occupational health assessment may be undertaken or information may be obtained from a medical practitioner. Where the concern arises out of a disability as defined by the Equality Act 2010¹, The University will decide whether reasonable adjustments can be made. Where appropriate, a work place risk assessment will be undertaken. Where practice placement/work experience is involved, decisions will be made in consultation with the relevant placement provider. If it is felt that no

¹ A physical or mental impairment which has a substantial adverse effect on the student's ability to carry out day-to-day activities. It can include specific learning difficulties and mental ill-health.

reasonable adjustments can be made to enable professional/competence standards to be achieved, the matter may be considered under these regulations.

- 4.8 If a student withdraws from their course, after proceedings under these regulations have started, the University reserves the right to continue with the proceedings. Proceedings may also be reinstated for students that have been reinstated on to their course or that have applied onto another relevant professional course.
- 4.9 Where a concern is raised prior to the University informing the relevant PSRB of the student's eligibility to apply for registration, the University will consider the matter under these regulations, which may impact on a student's eligibility to apply for registration with the relevant PSRB.
- 4.10 Where concern(s) have been expressed about the fitness to practise of a student following a course of study that, if completed successfully, would enable them to apply to be placed on the Register of a Registration Body, the University will normally deal with such matters under the terms of these regulations rather than its Fitness to Study Regulations.

5. Precautionary Suspension/Restriction

- 5.1 A Dean of the School (or nominee) may, after undertaking a risk assessment, suspend/restrict a student, with immediate effect and determine the extent of access to facilities at the time of the suspension/restriction, taking into account the nature of the concern, and the relevant circumstances:
 - 5.1.1 Where the student is considered unsafe to engage in placement/clinical activities or at high risk of becoming so. If restricted from placement/clinical setting, the student may continue any scheduled academic teaching or assessments and make use of University facilities unless restricted by the Dean of the School (or nominee).
 - 5.1.2 Suspended from the University (including any placement/clinical activity) where the student is considered a risk to other students and/or staff as well as patients/members of the public and/or where the student's participation in the course would be likely to prejudice the ability of the University to conduct an investigation under these regulations.
- 5.2 Where immediate suspension/restriction is imposed, the student may make representations against the decision within **7 days** of the notification. This request for review should be sent to the Vice-Chancellor's nominee via OSCAR.
- 5.3 The Vice-Chancellor's nominee will consider the request for review by way of a review of relevant evidence and may take action as follows:

- 5.3.1 uphold the original decision and confirm the terms of the Suspension and/or Restriction;
 - 5.3.2 uphold the original decision but reduce or restrict the terms of the Suspension and/or Restriction;
 - 5.3.3 Overturn the original decision and remove the Suspension and/or Restriction.
- 5.4 Any Suspension/Restriction under paragraph 5 of these Regulations will, unless otherwise stated, be for an initial period of four weeks, which can be renewed following a review by the Dean of the School (or nominee). At renewal of a Suspension and/or Restriction it should be made clear to the student when the next date for review will occur. A student has the right to submit new information at any point that is material to the continuation of the Suspension/Restriction.
- 5.5 If a concern arises outside normal University opening hours and it is not possible to contact the University, the relevant service manager shall be permitted to send the student away from the placement until the next working day. The University should then be contacted as soon as possible.
- 5.6 The placement provider, if appropriate, will be notified of a student's suspension/restriction. Further investigation in relation to the allegation will then be initiated under these regulations.
- 5.7 For students who are employed within the health and social care sector, the employing organisation and the University will liaise to determine any necessary actions required on the matter under consideration.

6 Relationship of Fitness to Practise with other procedures

- 6.1 The University reserves the right to be able to determine whether issues raised under these regulations should be transferred, or considered in addition, to another relevant procedure. The University may elect to use the following regulations, namely: The University's Student Disciplinary Regulations, or the Regulations relating to Academic Misconduct, the Fitness to Study Regulations (or equivalent Collaborative Partner process).
- 6.2 Where misconduct has been proven through an alternate process, and a concern about fitness to practise is raised as a result, a Stage 2 Hearing will not normally reinvestigate proven facts or rehear a proven case, but will consider fitness to practise in the light of the outcome of those proceedings.
- 6.3 Where a concern, relating to a student, is being investigated under these regulations, and the student is being considered under another set of University processes, then the fitness to practise process may be halted until the conclusion of any other relevant University process.
- 6.4 Where a student, subsequent to the commencement of a fitness to practise investigation or proceedings, submits a formal complaint relevant to their fitness to practise case, the University reserves the right to halt the

investigation/proceedings as is deemed appropriate, and consider the appropriate route in relation to the matter. In making the decision, the University shall have due regard to the nature of the complaint, whether any precautionary suspension/restriction in place and the potential prejudice that may be caused to the student and/or the investigation/proceedings if the investigation/proceedings is not halted. Where the University wishes to halt the investigation/proceedings, the halt will remain in place until the conclusion of the complaint and any precautionary suspension/restriction imposed on the student will also continue to remain in place.

7. Fair Treatment

- 7.1 The rules of natural justice will apply to all students subject to these regulations which aims to balance the rights of the student against the potential risk to themselves and/or members of the public.
- 7.2 All students will therefore know the case against them and will be afforded a reasonable opportunity to defend themselves. Decisions regarding students' fitness to practise will be made by decision-makers who have had no previous involvement with the students or the case (for example, no involvement which would lead a fair-minded and informed observer to conclude that there was a real possibility that the decision would not bring an open mind and objective judgment to bear). The standard of proof to be adopted during the application of these regulations will be 'on the balance of probability'. This means that the University is satisfied that, on the evidence available, the student's guilt is more likely than not.
- 7.3 If a student admits to the allegation but wishes to rely on some exception or lawful excuse for their conduct (for example, self-defence or action to protect others) then the burden of proof rests on the student on the civil standard of proof.
- 7.4 Where members of a meeting/hearing panel have found the facts which support the concern to be proven either in whole or in part, they should invite the student to make a plea in mitigation of penalty and to present any oral or documentary evidence to support that plea. Mitigation may include the student demonstrating remorse or insight, illness which is now being treated, training which the student has undergone, an absence of appropriate guidance on practise learning opportunity. Members of the panel may also take into account in determining an appropriate penalty, any evidence of aggravation, which may include the student denying or showing no insight into what has gone wrong or a lack of remorse.
- 7.5 Members of the meeting/hearing panel should also consider a student's fitness to practise in relation to how health and/or conduct may impact on the safety of patients/clients, the public, others students and staff, and on the public's trust in the profession.

8. Confidentiality/Disclosure of information

- 8.1 Information provided under these regulations will be disclosed only to those members of staff who require it for the purposes of investigating and responding to a case of fitness to practise. Wider disclosure will not be made to staff unless the University considers the disclosure necessary to protect the health or safety of any individual. For the use of this process, third party data will normally only be accepted from a student with the written consent of the individual concerned. Where third party data is submitted without the consent of the individual, it should be anonymised (i.e. names should be redacted). Students should be aware that documents may not be accepted where third party data submitted without consent has not been anonymised, but that they may be re-submitted once anonymisation has been carried out, or consent provided. Where non-anonymised third party personal data has been accepted in error, the University reserves the right to redact personal data. Processing of personal data in this way will be under the lawful basis of legitimate interest and in the public interest.
- 8.2 A copy of all documentation and decisions relating to a fitness to practise case will be retained in accordance with the University's Classification Scheme and Retention Schedule.
- 8.3 Any outcome of a meeting/hearing are confidential until formal notification is sent to the parties involved.
- 8.4 The University reserves the right to disclose details of proven cases to any third party in the event of a reference request where the University considers it relevant. The student will be informed in the event of any such disclosure.
- 8.5 Following a Stage 2 Hearing, where a case is proven, the University may disclose details of the case and/or specified conditions imposed to a relevant third party in certain circumstances, including:
- 8.5.1 To inform the relevant PSRB, where that PSRB's standards require notification of outcomes and specific conditions imposed;
 - 8.5.2 To inform the DBS where there are reasonable grounds to believe that a student poses a risk to children and/or vulnerable adults in accordance with the University's duty to refer such matters under the Safeguarding Vulnerable Groups Act 2006 (as amended from time to time or replaced);
 - 8.5.3 To inform the immigration service within the Home Office, in case of a significant change in the circumstances of a Tier 4 international student;
 - 8.5.4 To inform commissioners of health and social care courses specifically where there are reasonable grounds to believe that a student poses a risk to children and/or vulnerable adults.

8.6 Where a student submits a complaint to the Office of the Independent Adjudicator for Higher Education (OIA) relevant information shall be disclosed to the OIA in order for the review to take place.

9. Meetings or Hearings

9.1 Students and the relevant members of staff are required to attend all relevant meetings/hearings convened under these regulations.

9.2 Any meeting/hearing will normally be held at the University's Middlesbrough or Darlington Campus, or in a Collaborative Partner's campus. Students and staff based in other locations may either attend the relevant campus or participate in meetings/hearings electronically for example, via Skype. Those who wish to do so must inform the relevant Chair prior to the meeting/hearing.

9.3 The date, time and venue of a meeting/hearing will only be changed in exceptional circumstances and normally on one occasion only, for example, medical treatment. Any requests for a change in the date must be submitted to the Chair for consideration, supported by reasons. Where a decision to re-arrange a meeting/hearing has been refused, the student will be informed of the reasons, in writing, of the refusal and in the event the student is unable to attend, the case will be considered in the student's absence.

9.4 If a student does not attend a meeting/hearing without providing a good reason for their non-attendance in advance, the meeting/hearing may proceed in their absence if the Panel is satisfied that notice of the hearing was properly served on the student. If this happens, the fitness to practise case will be considered on the evidence available at the time.

9.5 A student/Investigating Officer has the right to be accompanied at any meeting/hearing by one friend who may not act as a representative or attend in any legal capacity unless permitted by the person conducting the proceedings. It is a student/Investigating Officer's responsibility to provide all relevant notices, communications, and documents to their friend.

9.6 A student wishing to bring a friend must provide the name of their friend to the relevant Chair of the Panel **5 days** prior to any meeting/hearing.

9.7 If the allegation(s) involve several students, the Chair of the relevant meeting/hearing may decide to hear the allegation(s) at one meeting/hearing, subject to their being no reasonable objections from the students.

9.8 The members of the meeting/hearing panel should have no direct interest, or prior material involvement (as defined in paragraph 7.1), in the student's fitness to practise case.

9.9 A Chair may adjourn a meeting/hearing at any time, for any reason, for such period as he/she, thinks fit, such discretion to be exercised fairly, reasonably and in the interests of justice.

- 9.10 The student and his/her friend and the Investigating Officer will normally be allowed to be present throughout the whole of any meeting/hearing except when the decision is being debated. Witnesses shall be present at the hearing/meeting only for the duration of their testimony and questioning by the parties.
- 9.11 The Chair of the relevant meeting/hearing panel shall have responsibility for the conduct of the related proceedings in accordance with these regulations, but may deviate from the procedure only where he/she considers it reasonable and in the interests of fairness to do so.
- 9.12 If a student and/or their friend has a disability and requires additional facilities or adjustments those requirements should be made known to the University prior to the meeting/hearing so, if possible, appropriate arrangements can be made.

10. Submission of New Documentary Evidence

The presentation of any new documentary evidence, by either party, at a meeting/hearing, will only be accepted in exceptional circumstances with agreement of the Chair. This may result in an adjournment of proceedings to provide all parties with the opportunity to consider the new evidence.

11. Behaviour at Meetings/Hearings

All participants at meetings/hearings are expected to behave in an orderly and non-confrontational manner. If the appropriate Chair of the meeting/hearing believes it is necessary they may adjourn or halt proceedings if, in their opinion the progress of the meeting/hearing is being hampered by the participant's behaviour.

12. Recording of Proceedings

The audio recording of meetings/hearings is prohibited subject to such reasonable adjustments as may be agreed by the University under the Equality Act 2010.

13. Timescales and Communication

- 13.1 Procedures shall normally be completed within the timescales cited in these regulations. However, in order to balance the need for a thorough investigation and a fair process, there may be circumstances where the timescales cannot be met. When this happens, the University must keep all relevant parties informed of any delays. The student and staff are also expected to meet the timescales when communicating with the University, unless there are exceptional circumstances beyond their reasonable control. In such circumstances, the student or staff should contact the relevant Secretary to discuss the feasibility of a new date.

- 13.2 Reference to timescales in these regulations relate to calendar days excluding the Christmas closure period of the University and statutory bank holidays.
- 13.3 For the purpose of these regulations, written communication with a student and relevant staff can be in paper or electronic format, for example, email.

14. Advice, Guidance and Support

- 14.1 Students can obtain advice from a number of sources. In particular, an Adviser in the Students' Union can provide students with advice independent of the University. This can include attending meetings/hearings in a supporting role. Staff and students can also seek advice and support on the regulations from OSCAR. Additionally Student & Library Services provide a range of services including welfare advice, counselling and disability services.
- 14.2 Students based at Collaborative Partners should contact their own Students' Union or equivalent.
- 14.3 When fitness to practise concerns are identified the relevant School should identify an academic member of staff, normally the personal tutor, to offer student pastoral support alongside fitness to practise procedures. Any academic member of staff involved in providing pastoral care should not be involved in investigating or hearing a fitness to practise concern. The person providing pastoral support will only discuss the process relating to fitness to practise and will not be able to discuss the specific details of the case. However, the person can obtain clarity, on behalf of the student, relating to procedural matters.

15. Monitoring and Evaluation

- 15.1 On an annual basis, Schools should normally submit to their relevant School Committee a report on aggregated data about fitness to practise cases. The report shall provide statistical data, identify any trends or wider issues.
- 15.2 On approval, the Schools data should be forwarded to OSCAR who shall transcribe this into its annual report to relevant University Committees/Boards. The report shall provide statistical data, and identify any trends or wider issues, and make any observations and/or recommendations which may assist the University to further good practice in the management of the fitness to practise processes.

PROCEDURE

16. This procedure provides the process that will be followed when a concern is brought to the attention of the University regarding a student's health and/or conduct. The process is proportionate to the concerns being raised. The procedure has the following stages:

- Initial Investigation Stage;
- Stage 1;
- Stage 2;
- Appeal Stage.

17. INITIAL INVESTIGATION STAGE

17.1 Where a concern has been brought to the attention of the Dean of the School (or nominee), they will decide, normally within **3 days**, whether an Initial Investigation Stage should commence.

17.2 The Dean of the School (or nominee) will appoint an Investigating Officer to carry out an investigation into the concern. The Investigating Officer should have had no previous material involvement in the case (for example, no involvement which would lead a fair-minded and informed observer to conclude that there was a real possibility that the Investigating Officer would not bring an open mind and objective judgment to bear on his/her investigation).

17.3 The Investigating Officer will inform the student and any relevant parties which need to be made aware owing to the risk presented to staff, students, patients and member of the public in writing, of:

- A concern has been raised, the nature of the allegation and it is under investigation;
- Whether the student is subject to a precautionary suspension;
- The advice and support which the student can obtain;
- The name of the academic member of staff who is able to provide the student with pastoral support.

17.4 The Investigating Officer will collect factual evidence in connection with the case, including relevant written statements. Normally, this investigation should be completed within a maximum of **14 days** of the notification to the student. If it becomes apparent to the Investigating Officer that their investigation will exceed this period, they should inform the student of when they expect their investigation to be concluded.

17.5 The Investigating Officer, on the conclusion of their investigation, will complete an Investigation Report Form and submit a summary of their findings to the Dean of the School (or nominee) who may, within **3 days** of its receipt, decide:

- 17.5.1 There is insufficient evidence of a concern, the allegations should be dismissed and the investigation should be terminated.
 - 17.5.2 There is sufficient evidence of a concern and refer the case to Stage 1.
 - 17.5.3 The matter is of such a serious nature, or demonstrates a repetitive pattern of unprofessional conduct, that the concern should be referred directly to Stage 2.
 - 17.5.4 The matter should be transferred, or considered, in addition if necessary, to another relevant procedure see paragraph 6 of these regulations.
- 17.6 Where the Dean of the School (or nominee) agrees that the allegations should be dismissed, the student, and any other party, should be informed, in writing, and, if necessary, the student should be reinstated on to their studies at the earliest opportunity.
- 17.7 Where the Dean of the School (or nominee) deems that the matter should initially be transferred to another relevant procedure he/she should inform the student, and any other relevant party, in writing, of the process to be followed.
- 17.8 Where the Dean of the School (or nominee) deems that there is sufficient evidence to proceed with consideration of the case under these regulations, they will inform the student, and any other relevant party, in writing, normally within **5 days** of whether the matter is to be dealt with under Stage 1 or Stage 2 of these regulations. Normally, cases will be dealt with at Stage 1 unless the Dean of the School or (nominee) believes it is serious enough to be dealt with at Stage 2.
- 17.9 A record of the initial investigations, and decision of the Dean of the School (or nominee), and any relevant correspondence, will be kept on the student's file in accordance with the University Classification Scheme and Retention Schedule.

18. STAGE ONE

Stage 1 will normally be initiated when minor misconduct which, though may not adhere to the relevant professional code, is not so serious as to raise a concern about fitness to practise at this stage and may be capable of resolution via informal means.

19. Procedure for the Hearing of a Stage 1 Meeting and Decision

- 19.1 Where the Dean of the School (or nominee) has given consent for the concern to be considered under Stage 1, within **5 days** he/she will appoint a Chair of Stage 1 Meeting, and ask the Investigating Officer to forward to the

Chair a copy of the full Investigation Report Form and relevant documentary evidence.

19.2 The membership will comprise of:

- A Chair appointed by the Dean of the School (or nominee);
- An independent member of staff from the School.

19.3 Within **5 days** of the Chair's appointment, the Chair will inform the student and the Investigating Officer, in writing, that they are required to attend a meeting to discuss the concern and provide them with the date, time and venue, and should be given a minimum of **7 days'** notice of the meeting. The meeting should be arranged no later than **15 days** from the appointment of the Chair. The communication should remind the student and the Investigating Officer of their right to be accompanied to the meeting by a friend, and where to seek advice and support, and provide the student with the Investigation Report Form and relevant documentary evidence. The communication should make reference to the Fitness to Practise Regulations (which can be as a link to the website where the regulations are located). The letter should also invite the student to inform the Chair of any adjustments to the process owing to a disability or specific learning difficulty.

19.4 During the meeting, Stage 1 Meeting will discuss with the student, and the Investigating Officer, the nature of the concern and both parties will be given the opportunity to respond to the concerns raised, ask questions, and raise any points.

19.5 At the conclusion of discussions the Investigating Officer, the student, and their friend(s), will be asked to leave the meeting. The Stage 1 Meeting will then consider all the points raised and any reason given by the student to explain their conduct. The members will decide to either:

19.5.1 Dismiss the case, no action required;

19.5.2 Recommend that the case proceed to Stage 2;

19.5.3 The case is proven.

19.6 Where the case is proven, the Stage 1 Meeting shall apply one of the following:

19.6.1 No further action is required;

19.6.2 Verbal Warning;

19.6.3 Establish and complete an action plan within a set period of time (normally a maximum of six months) in order to establish that the student understands the implications of the concern that has been raised. The action plan is to be completed alongside the continuation of their studies.

- 19.7 The student and Investigating Officer will be invited back into the meeting and informed of the decision.
- 19.8 The details and outcome of the meeting will be recorded on the Stage 1 Report Form. A copy of the Stage 1 Report Form will be sent to the student within **5 days** of the meeting. A record of the meeting will also be kept on the student's file in accordance with the University Classification Scheme and Retention Schedule. As necessary, any relevant parties will also be informed of the outcome of the case. In cases where the concern is proceeding to Stage 2, all documentation considered at the Stage 1 including a copy of the Stage 1 Report Form will be sent to the Secretary of Stage 2 for inclusion within the documentation to be considered at the Stage 2 Hearing.
- 19.9 The student must also be advised that they can proceed to the Stage 2 process if they are dissatisfied with the outcome, and should inform the Chair of the Stage 1 Meeting, within **7 days**, whether they wish the case to proceed to Stage 2.
- 19.10 Where a Stage 1 Meeting has found a case against a student proven, the Chair may need to notify the Chair of the relevant Assessment Board of the decision.
- 19.11 Where paragraph 19.6.3 is applied, a member of staff should be allocated to monitor the completion of the action plan ('Monitoring Officer'). At the conclusion of the specified time period, the Monitoring Officer will submit a report to the Chair of the Stage 1 Meeting recommending one of the following options:
- 19.11.1. The student has completed the action plan and the case should be closed.
 - 19.11.2. Additional time is required for the student to complete their action plan (maximum of three months).
 - 19.11.3. The student failed to meet the requirements of the action plan and the case should be considered at a Stage 2 Hearing.
- 19.12 The Chair of the Stage 1 Meeting will consider the recommendation of the Monitoring Officer and inform the student of their decision.

20. STAGE 2

Stage 2 will normally be initiated when the case is deemed to be of such a serious nature, or has been progressed from Stage 1.

21. Procedure for the Hearing of a Stage 2 Panel

- 21.1 Where the Dean of the School (or nominee) has given consent for the concern to be considered under Stage 2, or the outcome of Stage 1 is that the case should proceed to Stage 2, a Chair of the Stage 2 Panel will be appointed within **5 days**, and will be provided with a full copy of the Investigation Report Form and relevant documentary evidence.
- 21.2 The Stage 2 Panel membership will comprise of:
- The Chair appointed by the Dean of the School (or nominee) who has a casting vote;
 - An academic member of the School who is professionally qualified from the subject/professional area in which the student is enrolled;
 - An academic member of staff from another School/Department/Faculty in which the student is enrolled;
 - An appropriate practitioner from the same subject/professional area in which the student is enrolled not associated with the case.
- 21.3 A Secretary will also be in attendance to take notes and advise on procedure.
- 21.4 Normally, within a maximum of **30 days** of the Chair's appointment, the Secretary will inform the student and the Investigating Officer, in writing, that they are required to attend a Stage 2 Hearing.
- 21.5 All parties will be provided with a minimum of **10 days** notice of the hearing and will be provided with the following information:
- 21.5.1 The full details of the nature of the allegation, including a full copy of the Investigation Report Form, relevant documentary evidence, and the name of any relevant witnesses which the School intend to call and copies of their witness statements;
- 21.5.2 The student's right to be accompanied by a friend, and where to seek advice and support;
- 21.5.3 A statement that the student may call witnesses who have relevant evidence to provide in respect of his/her defence and mitigation;
- 21.5.4 The details of the date, time and venue of the Hearing and those who will be present;
- 21.5.5 Reference to the Fitness to Practise Regulations (which can be as a link to the website where the regulations are located);
- 21.5.6 If the case has proceeded from Stage 1, a copy of the relevant documentation related to this stage.

- 21.5.7 The letter should invite the student to inform the Chair of any adjustments to the process owing to a disability or specific learning difficulty.
- 21.6 If there is a delay in organising the hearing, the secretary will keep all parties informed.
- 21.7 The student will be requested to submit a statement in his/her defence, the name of their friend, and witness(s) no less than **5 days** prior to the Hearing, and these will be circulated to the relevant parties prior to the Hearing.

22. Attendance of Witnesses

- 22.1 Both parties may call witnesses, who have relevant evidence to provide which has a bearing on the material aspects of the case, to attend for the Stage 2 Hearing only. The witnesses will only be invited to attend a portion of the Hearing when their evidence is required for consideration, and are expected to leave at the conclusion of their evidence. The Stage 2 Panel may also ask questions of witnesses for the purposes of seeking clarification. It is the parties' responsibility to inform their witnesses of the date, time and venue of the Hearing and provide them with copies of appropriate documentation.
- 22.2 The presentation of any new witnesses, by either party, will only be accepted in exceptional circumstances with agreement of the Chair. This may result in an adjournment of proceedings to provide all parties with the opportunity to consider the matter.
- 22.3 The Chair may call any appropriately qualified persons to give technical or expert evidence. The Chair may adjourn or postpone the hearing pending provision, and consideration by the parties, of the relevant expert report. In such cases, it is the responsibility of the Chair to ensure that the witness is provided with the appropriate documentation.

23. During the Hearing

During the Hearing:

- The Chair will invite all those present to introduce themselves and will outline the procedure of the Hearing;
- The Investigating Officer will present the case against the student including calling any witnesses;
- Members of the Panel may ask questions of the Investigating Officer and any witnesses;
- The student and/or friend may ask questions on any representations made by the Investigating Officer or any witness via the Chair;
- The Chair will ask the student and/or friend to present their response and present any witnesses;
- Members of the Panel may ask questions of the student and/or friend and any witness for clarification purposes;

- The Investigating Officer may ask questions on any representations made by the student and/or friend via the Chair;
- The Investigating Officer will sum up their case;
- The student and/or friend will sum up their response which may include a submission in mitigation;
- The Chair will ask the student and/or friend and the Investigating Officer to leave the Hearing whilst deliberations take place;
- The Panel will consider the evidence in private and reach a decision in accordance with paragraph 24;
- After a decision has been made by the Panel, the parties should be invited back and the Chair should report the Panel's decision regarding the facts and the student's fitness to practise.

24. The Decision

24.1 The Stage 2 Panel need not be unanimous in its decision, but should base its decision on the majority view. Where a decision is split between the Panel, the Chair may choose to exercise his/her casting vote. The Stage 2 Panel shall:

- Make findings of fact.
- Decide whether the facts found to be proven amount to an impairment of fitness to practise by reason of misconduct or ill-health.
- Consider whether there are any mitigating or remediating factors which may affect the Panel's decision regarding the student's fitness to practise.
- Take into account any mitigating or aggravating circumstances, such as previous findings, in deciding on the appropriate penalty considered in an ascending scale of seriousness (for example, considering the least serious penalty first and the most serious last).

24.2 The Stage 2 Panel may decide one of the following:

- 24.2.1 Defer a decision pending the receipt of further information and/or advice, and normally reconvene the Panel within 30 days;
- 24.2.2 Dismiss the case, and no further action will be taken;
- 24.2.3 The case is inconclusive as there is insufficient evidence to enable the Panel to find on the balance of probabilities that the student is unfit to practise, but there is sufficient evidence to warrant some action to ensure the protection of the public.
- 24.2.4 Find the case proven.

- 24.3 Where the case is inconclusive (as in paragraph 24.2.3), the Stage 2 Panel may apply the following:
- 24.3.1 Verbal Warning and/or;
 - 24.3.2 Additional monitoring or supervision for a defined period (for a maximum period of six months) and/or;
 - 24.3.3 A recommendation that the student engage with identified support mechanisms.
- 24.4. Where the case is proven (as in paragraph 24.2.4), the Stage 2 Panel may apply one of the following:
- 24.4.1 The student's fitness to practise is not impaired to the point that remedial action is required;
 - 24.4.2 Written Warning;
 - 24.4.3 Establish and complete an action plan within a set period of time (normally a maximum of six months) in order to establish that the student understands the implications of the concern that has been raised. The action plan is to be completed alongside the continuation of their studies;
 - 24.4.4 Establish and complete an action plan within a set period of time (normally a maximum of six months) in order to establish that the student understands the implications of the concern that has been raised. The student is also not permitted to continue on the course until the action plan has been completed;
 - 24.4.5 Establish and complete an action plan within a set period of time (normally a maximum of six months) in order to establish that the student understands the implications of the concern that has been raised. The student is also required to interrupt their studies for a specified period and must complete the action plan prior to reengaging with their studies;
 - 24.4.6 Discontinuation from the course on the basis that the impairment of the student's fitness to practise is irremediable.

25. Procedure following the decision of a Stage 2 Panel

- 25.1 Within **5 days**, all relevant parties shall be informed, in writing, of the decision of the Stage 2 Panel including the reasons for the Panel's findings, any sanctions imposed and the right to appeal the decision.
- 25.2 Where a Stage 2 Panel has found a case against a student proven the Chair is responsible for notifying the Chair of the relevant Assessment Board of the Panel's decision in order to inform progression decisions. Where a Panel has

found the situation is irredeemable, in accordance with paragraph 24.5.6, an Assessment Board will formally record a student as being discontinued and consider the student's profile to recognise any achieved credits.

- 25.3 As provided for at paragraph 8.5, where a case is proven, the University may disclose details of the case and/or specified conditions imposed with an employing organisation, placement provider, PSRB, DBS, or immigration service with the Home Office.
- 25.4 Normally, the minutes of the Stage 2 Hearing will be produced and ratified by the Chair within 28 days of the date of the Hearing.
- 25.5 Where paragraphs 24.4.3, 24.4.4 or 24.4.5 are applied, a Monitoring Officer should be appointed to oversee the completion of the student's action plan. At the conclusion of the specified time period, the Monitoring Officer will determine whether:
- 25.5.1 The student has completed the action plan and the case should be closed.
- 25.5.2 Additional time is required for the student to complete their action plan (maximum of three months).
- 25.5.3 The student failed to meet the requirements of the action plan and the student is deemed unfit to practise.
- 25.6 The Monitoring Officer will inform the student of their decision and submit their findings to the relevant Assessment Board for consideration.

26. APPEAL STAGE

A student may appeal the decision of a Stage 2 Panel and/or penalty imposed. Unless paragraph 27.5.1 applies, the Appeal Stage will not normally consider the issues afresh and will only consider appeals on certain grounds set out in paragraph 27.5.

27. Submitting an Appeal

- 27.1 A student must submit a Fitness to Practise Appeal Form to OSCAR within **7 days** of the publication of the decision of the Stage 2 Panel.
- 27.2 Only in exceptional circumstances will an appeal be accepted after the 7 day cut-off date, and only then if made within **35 days** after the formal publication of the Stage 2 Panel decision. The decision on whether, exceptionally, to accept a late appeal will be at the discretion of the relevant Vice-Chancellor's nominee (normally the Chair of the Fitness to Practise Appeal Panel ('Chair of the Appeal Panel')) whose decision is final and not subject to further review. If the appeal is declined, the student will be issued with a 'Completion of Procedures' letter.

- 27.3 Receipt of the appeal will normally be acknowledged by OSCAR within **3 days** of its receipt.
- 27.4 The request **must** identify the grounds and reasons for the appeal. If the relevant information is not provided then OSCAR will return the appeal to the student asking that he/she provide the necessary information. The student will have **5 days** to provide this information to OSCAR. If the required information is not received, the appeal will automatically be rejected and the student will be issued with a 'Completion of Procedures' letter.
- 27.5 An appeal can only be made on the following grounds:
- 27.5.1 That the decision of the Stage 2 Panel was inconsistent with and unsupported by evidence;
- and/or
- 27.5.2 That there was a material procedural irregularity by the Stage 2 Panel which has prejudiced the student's case;
- and/or
- 27.5.3 That additional evidence has come to light since the decision of the Stage 2 Panel, which could not reasonably have been expected to have been produced at the time of the consideration of case by the Stage 2 Panel.
- 27.6 It is expected that students will provide documentary evidence (where appropriate) to support their case at the same time as their Fitness to Practise Appeal Form. Where the submission of supporting documentary evidence is not possible, due to circumstances outside the student's control, the form should be submitted with a clear statement that evidence will follow, normally within **20 days**. If no subsequent supporting evidence is received, OSCAR will process the appeal based on the available documentation.
- 27.7 Students are advised to retain a copy of their Fitness to Practise Appeal Form and any supporting documentation. Documents supplied as part of the appeal process will not be returned. Where photocopies of documents are submitted, the student may be required to provide OSCAR with sight of the original documents in order to verify their authenticity. If evidence is provided in a language other than English, it is the student's responsibility to have it independently translated.

28. Initial Consideration of an Appeal

- 28.1 OSCAR, upon receipt of a Fitness to Practise Appeal Form, shall conduct an initial screening of the application to assess whether the appeal complies with the criteria set out in paragraph 27, namely that it has been made on time, includes the relevant information and is made on the permitted grounds. If it does not meet the criteria set out in paragraph 27, or it appears that the appeal is incomplete, frivolous or vexatious, OSCAR will forward the appeal to the Chair of the Appeal Panel who may dismiss appeal in accordance with paragraph 28.4.1.
- 28.2 Where the appeal complies with the criteria set out in paragraph 27, OSCAR will request the Chair of the Stage 2 Panel to provide a written report ('the Chair's Report') to OSCAR within 12 days of receipt of the appeal.
- 28.3 The Chair's Report must normally contain:
- Date of the Stage 2 Panel;
 - A copy of all documentation considered by the Stage 2 Panel;
 - The letter informing the student of the decision of the Stage 2 Panel;
 - Minutes of the Stage 2 Panel;
 - A copy of the evidence provided to the parties as cited in paragraph 21.5 of the Regulations;
 - Any other information/statement which may assist the Chair of the Appeal Panel to reach a decision.
- 28.4 On receipt of the Chair's Report, OSCAR will forward the case to the Chair of the Appeal Panel who will determine whether:
- 28.4.1 The appeal is incomplete, out of time, misconceived, frivolous or vexatious, and should be dismissed, in which event the student will be issued with a 'Completion of Procedures' letter;
- 28.4.2 There is sufficient evidence to request the Stage 2 Panel be reconvened to consider the case based on the evidence presented. In such cases, the Chair of the Appeal Panel must inform the student, in writing, of any such action/decision taken and a copy of the decision must be sent to OSCAR. The Chair of the Appeal Panel must also advise the student of his/her right to continue to pursue the case through formal appeal process under paragraph 29. If the student remains dissatisfied with the decision of the Chair to refer it back to the Stage 2 Panel, the student should contact OSCAR within 7 days.

28.4.3 To request an Appeal Panel be convened to consider the case in accordance with paragraph 29 of these regulations.

29. Fitness to Practise Appeal Panel

29.1 The Fitness to Practise Appeal Panel ('Appeal Panel') shall consist of three members who have had no prior material involvement (as explained in paragraph 7.1) with the student, or previously participated in the case under consideration. The Panel will have the following membership:

- A Chair, who will be a Vice-Chancellor's nominee;
- One elected officer from the Teesside University's Students' Union;
- One senior representative of a School.

29.2 A Clerk and Secretary will also be in attendance.

29.3 Meetings of the Appeal Panel will normally be held within **20 days** of a request for a Panel to be convened. The student will be advised of the date and time of the meeting.

29.4 The letter should invite the student to inform the Chair of any adjustments to the process owing to a disability or specific learning difficulty.

29.5 At least **5 days** before the Hearing, the student and the Chair of the relevant Stage 2 Panel should confirm to OSCAR who will be attending.

29.6 The papers to be considered by the Appeal Panel will be circulated to all parties prior to the Hearing.

29.7 During the Hearing:

- The Chair of the Appeal Panel will outline the procedure of the meeting to all parties;
- The Chair of the Appeal Panel will ask the student and/or friend to present their Appeal;
- The Chair of the Stage 2 Panel may ask for clarification on the representations made by the student and/or friend;
- Members of the Panel may ask questions of the student and/or friend;
- The Chair of the Appeal Panel will ask the Chair of the relevant Stage 2 Panel to respond to the appeal;
- Members of the Panel may ask questions of the Chair of the relevant Stage 2 Panel;
- The student may ask for clarification on any representations made by the Chair of the relevant Stage 2 Panel;
- The Chair of the relevant Stage 2 Panel will sum up their case;
- The student and/or friend will sum up their response;
- The Chair of the Appeal Panel will ask the student and the Chair of the relevant Stage 2 Panel to leave the meeting;
- The Panel will consider the evidence in private and reach a decision in accordance with paragraph 30.

30. Decision of the Fitness to Practise Appeal Panel

- 30.1 The decision of the Appeal Panel will be by majority decision.
- 30.2 After consideration of the available evidence relating to the case, the Appeal Panel may reach any of the following decisions:
- 30.2.1 Reject the student's appeal and uphold the Stage 2 Panel's original decision;
 - or
 - 30.2.2 Uphold the student's appeal in which case the Appeal Panel may choose to refer it back to the Stage 2 Panel for reconsideration together with any recommendations made by the Appeal Panel or recommend a newly constituted Stage 2 Panel hear the original case if appropriate (for example where there has been evidence of bias/procedural irregularity).

31. Procedure following decision of Fitness to Practise Appeal Panel

- 31.1 Normally, within **5 days**, the student and the relevant School representative who attended the Appeal Panel shall be informed, in writing, of the decision of the Appeal Panel.
- 31.2 Where it is decided that the appeal is rejected, the student will be issued with a 'Completion of Procedures' letter, which concludes the fitness to practise process within the University.
- 31.3 Where it is decided that the case shall be referred back to the Stage 2 Panel to reconsider its previous decision the Panel will be convened at the earliest opportunity and normally within **15 days**.
- 31.4 Where it is decided that the case shall be referred to a newly constituted Panel the Panel will be convened at the earliest opportunity.
- 31.5 The Chair of the Appeal Panel may nominate an observer to attend any reconvened Stage 2 Panel or newly formed Panel. OSCAR will communicate the name of the observer to the Secretary of such Panel. The observer shall, if requested, provide clarification to the Panel on the recommendations/conclusions of the Appeal Panel.
- 31.6 The Chair of the reconvened Stage 2 Panel or a new Chair of a newly constituted Panel is responsible for communicating the outcome of any reconvened/newly constituted Panel to the student and to OSCAR in writing, within **5 days** of its decision with reasons for its decision to the student. The decision of the reconvened Stage 2 Panel/newly constituted Panel shall also be reported to the relevant Assessment Board as appropriate. The student should be informed of the opportunity to submit a fresh Review application if they are dissatisfied with the decision of the reconvened or newly constituted

Stage 2 Panel.

32. THE OFFICE OF THE INDEPENDENT ADJUDICATOR FOR HIGHER EDUCATION (OIA)

At the conclusion of the University's internal processes connected with these regulations, the student shall be issued with a 'Completion of Procedures' letter of internal proceedings in the manner prescribed by the Office of the Independent Adjudicator for Higher Education (OIA). A student who is of the opinion that his/her case is unresolved may apply to the OIA for reconsideration of the case under the rules of its scheme within 12 months of the issue of the 'Completion of Procedure' letter. Information on the process may be obtained directly from the OIA at <http://www.oiahe.org.uk>.

Appendix 1

Professional, statutory, regulatory body (PSRB) relates to the following:

- Nursing and Midwifery Council (NMC)
- Health and Care Professions Council (HCPC)
- General Dental Council (GDC)
- General Optical Council (GOC)
- British Psychological Society (BPS)
- British Association of Sport Rehabilitators and Trainers (BASRAT)

Appendix 2

A non-exhaustive list of examples of areas of concerns, which may raise questions about whether a student is fit to practise, and may result in a change of the students DBS status.

1. Physical or psychological issues, where an existing condition worsens, or a new condition arises, which despite reasonable adjustment(s) or treatment affects a student's fitness to practise (*for example, treatment resistant conditions*).
2. Physical or psychological issues where a student lacks insight or is unable to effectively manage their condition may indicate an inability to engage with their studies (*for example, failure to seek appropriate medical treatment or other support; failure to follow medical advice or care plans in relation to maintaining fitness to practise; failure to report health concerns; failure to recognise limits and abilities, or lack of insight into health concerns, which might impair fitness to practise*);
3. The deliberate withholding of information related to health issues, which might affect fitness to practise (*for example, police investigations, failure of a student to report a change in their health status, which impacts, or has the potential to impair their ability to provide safe and effective practice*);
4. Allegations currently under investigation by a lawful body, or convictions or cautions for, criminal activity (including spent convictions under the provisions of the Rehabilitation of Offenders Act 1974 as amended, and inclusion on the DBS's barred lists); Where a student, who is subject to these regulations, accepts a caution, they are admitting that they are guilty of an offence.
5. Failure to disclosure relevant information (*for example, convictions or cautions, penalty notice of disorder (PND), warnings, reprimands or disciplinary action in employment*), relating to theft, financial fraud, possession of illegal substances, creating or obtaining child pornography, child abuse or any other abuse;

6. Failure by the student to disclose a change in the student's DBS status within 7 days of the change which may require investigation under these regulations.
7. Other similar investigations (*for example, child protection investigations and orders, or employment disciplinary proceedings*);
8. Dishonesty or fraud (*including dishonesty outside of the professional role, falsifying signatures, documentation, qualifications, misrepresentation or financial fraud*);
9. Substance Abuse (*for example, driving with excess alcohol or under the influence of drugs, alcohol that affects the work or the work environment; misusing therapeutic or illicit drugs, possessing or dealing drugs, even if there are no legal proceedings*);
10. Aggressive, violent or threatening behaviour (*for example, assault, sexual assault, physical violence, bullying, verbal abuse*);
11. Concerns relating to honesty or probity, including a proven case of academic misconduct;
12. Failure to comply with University or practice provider policies and procedures (*for example, patient/client safety issues, unsafe practice, or at high risk of becoming unsafe*);
13. Breaches of professional responsibility (*for example, breaches of confidentiality, behaviour which is damaging to others, sexual, racial or other forms of harassment, failure to observe appropriate boundaries in behaviour, persistent rudeness, bullying, unlawful discrimination, failure to comply with course attendance requirements*);
14. Behaviour contrary to professional body code/standards;
15. Behaviour which puts a student, or others, at risk;
16. Persistent inappropriate attitude or behaviour, or a pattern of repeated behaviour that does not change after an action plan has been set (*for example, lack of commitment in the University/practice, poor time management, infrequent attendance, poor communication, failure to accept or follow advice, previously proven Stage*);
17. Unprofessional digital presence;
18. Concerns, which may damage the public's view of a student's profession.