



## Fitness for Professional Practise Procedures

<b>Document title:</b>	<b>Fitness for Professional Practice Procedures</b>
<b>Audience:</b>	Bradford College Higher Education Students (placements not validated by an external awarding body): these procedures apply to students undertaking programmes leading to registration or re-registration with a Professional/Statutory/Regulatory Body (PSRB).
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### Revision history

Version	Type (e.g. replacement, revision etc....)	Date	History (reason for changes)
V1	New	Sept 2016	
V2	Revision	Sept 2018	Revision due to College restructure and GDPR
V3	Revision	Jan 2020	Revisions due to College Restructure and OfS guidance review
V4	Revision	September 2021	Revisions due to changes in staffing structures
V5	Revision	Oct 2022	Revisions due to changes in staffing structures
V6	Annual Review	August 2023	Administrative changes only

### Monitoring and review

This procedure will be reviewed by the Academic Board and SLT at least every 2 years.

## 1. Definitions

Standard of Proof	the level of certainty and the degree of evidence necessary to establish proof in a proceeding
Burden of Proof	the obligation of a party in a proceeding to produce the evidence that will prove the claims they have made against the other party
Balance of Probabilities	an event or incident where one outcome is more likely to have taken place than the other
Staff	Staff employed by Bradford College only
Fitness to Practise	denotes a students' suitability in terms of meeting relevant standards of health and/or conduct to undertake study leading to eligibility to apply for registration with a PSRB.

## 2. Introduction and Scope

The College 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 College professionally regulated award.

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 College and include periods of professional placement or work-based learning experience. Concerns may be brought to the College's attention by any person(s) or organisation(s).

Students will normally obtain information on their respective professional code/standards during programme inductions, general programme curricula, in their practise and College learning environment, and School/College and Programme Handbooks. All students on programmes of study subject to these regulations are expected to have familiarised themselves with their relevant professional code/standards and how they meet the 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 College's Student Positive Behaviour Policy and Procedure and/or the College's Academic Appeal Regulations.

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

## 3. General Principles

### 3.1 Application of the Procedures

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 programme of study (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.

- 3.1.1.** College staff, who allege that a student is not fit to practise, should inform the Head of Department, who will decide whether an investigation outlined in these procedures should be initiated.
- 3.1.2.** Concerns relating to a student's fitness to practise may come to the attention of the College through a variety of means, for example, another student, a placement provider, a client, a member of the public, or a member of staff. Students are also required to update the College 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 1.
- 3.1.3.** Unprofessional conduct, as outlined in Appendix 1, which takes place outside of the College or practice setting or relating to health concerns will also be considered under these procedures.
- 3.1.4.** If, during the consideration of a concern under these procedures, 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 Student Positive Behaviour Policy and Procedure. In such cases, the College shall have the discretion either to proceed with its own investigation and consider the matter under Formal Stage in parallel with any police investigation or suspend the proceedings until such time as the police have concluded their investigations, or until such time as any criminal trial has been concluded. Where the proceedings have been suspended by the College, the College reserves the right to resume consideration of the case notwithstanding a decision by the police not to proceed for want of evidence or in the event of an acquittal following a criminal trial.
- 3.1.5.** 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 18 (Formal Stage) 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 Formal Stage Panel's decision, and their right to submit an appeal in accordance with paragraph 25 (Appeal Stage).
- 3.1.6.** Where, during the programme, 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 2010, the College 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.

- 3.1.7.** If a student withdraws from their programme of study, after proceedings have started, the College 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 programme.
- 3.1.8.** Where a concern is raised prior to the College informing the relevant PSRB of the student's eligibility to apply for registration, the College will consider the matter under these procedures, which may impact on a student's eligibility to apply for registration with the relevant PSRB.

#### **4. Relationship to Fitness for Professional Practice with other procedures**

- 41.** The College 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.
- 42.** Where misconduct has been proven through an alternate process, and a concern about fitness to practise is raised as a result, a Formal Stage 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.
- 43.** Where a concern, relating to a student, is being investigated under these regulations, and the student is being considered under another set of College processes, then the fitness to practise process may be stayed until the conclusion of any other relevant College process.

#### **5. Precautionary Suspension**

- 51.** The Head of Department (or nominee) may suspend a student, with immediate effect and determine the extent of access to facilities at the time of the suspension, considering 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 suspended from placement/clinical setting, the student may continue any scheduled academic teaching or assessments and make use of College facilities unless restricted by the Head of Department (or nominee).
  - 5.1.2** 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 programme would be likely to prejudice the ability of the College to conduct an investigation under these procedures, suspension from the programme of study (including any placement/clinical activity) may be approved by the Head of Department or the Safeguarding team.
  - 5.1.3** If a concern has arisen, as described in paragraph 3.1.5, the Head of Department (or nominee) should decide whether the matter is serious enough to warrant suspending the student. In such cases, further action under these proceedings may need to be deferred until any criminal proceedings have been completed. If the student has been suspended this

shall be regularly reviewed by the Head of Department (or nominee). A student may request a review of their suspension if they believe there has been a change in the circumstances.

- 5.2 If a concern arises outside normal College opening hours and it is not possible to contact the College, the relevant service manager shall be permitted to send the student away from the placement until the next working day. The College should then be contacted as soon as possible.
- 5.3 The placement provider, if appropriate, will be notified of a student's suspension. Further investigation in relation to the allegation will then be initiated under these regulations.
- 5.4 For students who are employed within the health and social care sector, the employing organisation and the College will liaise to determine any necessary actions required on the matter under consideration.
- 5.5 A student may be suspended in accordance with these regulations pending completion of proceedings under these regulations.

## **6 Fair Treatment**

- 6.1 The College has a duty to act fairly and reasonably with 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.
- 6.2 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 impartial decision-makers who have had no previous material involvement with the students (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). Those decisions will be made on the basis of the facts proven on the civil standard of proof, which is the balance of probabilities (for example, that it is more likely than not that a particular fact occurred).
- 6.3 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.
- 6.4 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 consider 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.

- 6.5 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, other students and staff, and on the public's trust in the profession.

## **7 Confidentiality/Disclosure of Information**

- 7.1 Information provided under these regulations will be disclosed only to those members of staff who need 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 College considers the disclosure necessary to protect the health or safety of any individual.
- 7.2 A copy of all documentation and decisions relating to a fitness to practise case will be retained in accordance with the General Data Protection Regulation Act (2018) and the College's "Information and Records Management Policy".
- 7.3 Any outcomes of a meeting/hearing are confidential until formal notification is sent to the parties involved.
- 7.4 The College reserves the right to disclose details of proven cases to any third party in the event of a reference request where the College considers it relevant. The student will be informed in the event of any such disclosure.
- 7.5 Following a Formal Stage Hearing, where a case is proven, the College may disclose details of the case and/or specified conditions imposed to a relevant third party in certain circumstances, including:
- 7.5.1 To inform the relevant PSRB, where that PSRB's standards require notification of outcomes and specific conditions imposed;
  - 7.5.2 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 College's duty to refer such matters under the Safeguarding Vulnerable Groups Act 2006 (as amended from time to time or replaced);
  - 7.5.3 To inform commissioners of health and social care programmes specifically where there are reasonable grounds to believe that a student poses a risk to children and/or vulnerable adults.

## **8 Meetings or Hearings**

- 8.1 Students and the relevant members of staff are required to attend all relevant meetings/ hearings convened under these regulations.
- 8.2 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.

- 8.3 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.
- 8.4 A student has the right to be accompanied at any meeting/hearing by a friend. A 'friend', for the purpose of any meeting/hearing is defined as a person who, at the request of the student, may accompany them, and is entitled to speak or act on their behalf. It is a student's responsibility to provide all relevant notices, communications and documents to their friend.
- 8.5 A student wishing to bring a friend must provide the name of their friend to the relevant Chair of the Panel 5 working days prior to any meeting/hearing.
- 8.6 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.
- 8.7 The members of the meeting/hearing panel should have no direct interest, or prior material involvement (as defined in paragraph 6.2), in the student's fitness to practise case.
- 8.8 A Chair may adjourn a meeting/hearing at any time, for any reason, for such period as he/she thinks fit. Such discretion should be exercised fairly and reasonably.
- 8.9 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.
- 8.10 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 Submissions 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.

## **10 Behaviour at Meetings/Hearings**

All participants are expected to behave in an orderly and non-confrontational manner during any meetings/hearings. Any meeting/hearing may be adjourned if, in the opinion of the Chair, progress of the meeting/hearing is being hampered.

## **11 Recording Proceedings**

11.1 The audio recording of meetings/hearings held under these regulations is allowed where a student has recourse to reasonable adjustments as required under the Equality Act 2010.

11.2 Mobile phones will not be allowed in Fitness to Practise Meetings – students will be reminded of this in all prior communication.

## **12 Timescales**

12.1 Procedures shall normally be completed within the timescales cited in these procedures. 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 College must keep all relevant parties informed of any delays. The student and staff are also expected to meet the timescales when communicating with the College, unless there are exceptional circumstances beyond their reasonable control. In such circumstances, the student should contact the Governance Analyst to discuss the feasibility of a new date.

12.2 For the purpose of these regulations, written communication with a student and relevant staff can be in paper or electronic format, for example, email.

## **13 Advice, Guidance and Support**

13.1 Students can obtain advice from a number of sources. In particular, the Students' Union, who can provide students with impartial advice, or the Student Services Department. This can include attending meetings/hearings in a supporting role. Students can also seek advice and support on the regulations from the Governance Analyst. However, they will not provide any advice on the individual case or its merit.

13.2 At all stages, students must be advised that they are able to access support from Student Services.

13.3 When fitness to practise concerns are identified the relevant School should identify an academic member of staff to offer a 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.

## **14 Monitoring and Evaluation**

The Quality and Information Services Department should normally submit summary data relating to Fitness to Practice Proceedings (number of cases and whether resolution has been reached) as part of quarterly review activity. If this summary data presents any risk to confidentiality – it will be withheld.

## **15 Procedure**

This procedure provides the process that will be followed when a concern is brought to the attention of the College 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;
- Informal Stage;
- Formal Stage;
- Appeal Stage.

## **16 Initial Investigation Stage**

- 16.1 Where a concern has been brought to the attention of the Head of Department (or nominee), they will initially decide, normally within 3 working days, whether an Initial Investigation Stage should commence.
- 16.2 The Head of Department (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).
- 16.3 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 members of the public, in writing, of:
- 16.3.1 The fact that a concern has been raised, the nature of the allegation and that it is under investigation;
  - 16.3.2 Whether the student is subject to a precautionary suspension;
  - 16.3.3 The advice and support which the student can obtain;
  - 16.3.4 The name of the academic member of staff who is able to provide the student with pastoral support.
- 16.4 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 15 working 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.

- 16.5 The Investigating Officer, on the conclusion of their investigation, will complete an Investigation Report Form and submit a summary of their findings to the Head of Department and Head of Governance and Operations (or nominee) whomay, within 3 working days of its receipt, decide:
- 16.5.1 There is insufficient evidence of a concern, the allegations should be dismissed and the investigation should be terminated.
  - 16.5.2 There is sufficient evidence of a concern and refer the case to the Informal Stage.
  - 16.5.3 The matter is of such a serious nature, or demonstrates a repetitive pattern of unprofessional conduct, that the concern should be referred directly to the Formal Stage.
  - 16.5.4 The matter should be transferred, or considered, in addition if necessary, to another relevant procedure (see paragraph 6 of these regulations).
- 16.6 Where the Head of Department (or nominee) and Head of Governance and Operations agree 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.
- 16.7 Where the Head of Department (or nominee) and Head of Governance and Operations deem 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.
- 16.8 Where the Head of Department (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 working days of whether the matter is to be dealt with under the Informal or Formal Stage of these regulations.
- 16.9 A record of the initial investigations, and decision of the Head of Department (or nominee), and any relevant correspondence, will be kept on the student's file in accordance with the Information and Records Management Policy.

## **17 Informal Stage**

The Informal Stage 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.

## **18 Procedure for the Hearing of an Informal Stage Meeting and Discussion**

- 18.1 Where the Head of Department (or nominee) and Head of Governance and Operations has given consent for the concern to be considered under the Informal Stage, within 5 working days he/she will appoint a Chair of the Informal Stage Meeting, and ask the Investigating Officer to forward to the Chair a copy of the full Investigation Report Form and relevant documentary evidence.

- 18.2 The membership will comprise of:
- 18.2.1 A Chair appointed by the Head of Department or Head of Governance and Operations (or nominee);
  - 18.2.2 An independent member of staff from the School.
- 18.3 Within 5 working 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 5 working days' notice of the meeting. The meeting should be arranged no later than 15 working 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.
- 18.4 During the meeting, the panel 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.
- 18.5 At the conclusion of discussions, the Investigating Officer, the student, and their friend(s), will be asked to leave the meeting. The Informal Stage Meeting will then consider all the points raised and any reason given by the student to explain their conduct. The members will decide:
- 18.5.1 To dismiss the case, no action required;
  - 18.5.2 To recommend that the case proceed to the Formal Stage;
  - 18.5.3 The case is proven.
- 18.6 Where the case is proven, the Informal Stage Meeting shall apply one of the following:
- 18.6.1 No further action is required;
  - 18.6.2 Verbal Warning;
  - 18.6.3 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.
- 18.7 Where paragraph 18.6.3 is applied, and the student does not complete the action plan within the specified period, the student will be required to attend a Formal Stage Hearing.
- 18.8 The student and Investigating Officer will be invited back into the meeting and informed of the decision.

- 18.9 The details and outcome of the meeting will be recorded on the Informal Stage Report Form. A copy of the Informal Stage Report Form will be sent to the student within 5 working days of the meeting. A record of the meeting will also be kept on the student's file in accordance with the Information and Records Management Policy. As necessary, any relevant parties will also be informed of the outcome of the case. In cases where the concern is proceeding to the Formal Stage, all documentation considered at the Informal Stage including a copy of the Informal Stage Report Form will be sent to the Academic Regulations and Compliance for inclusion within the documentation to be considered at the Formal Stage Hearing.
- 18.10 The student must also be advised that they can proceed to the Formal Stage process if they are dissatisfied with the outcome, and should inform the Chair of the Informal Stage Meeting, within 5 working days, whether they wish the case to proceed to the Formal Stage.
- 18.11 Where an Informal Stage Meeting has found a case against a student proven, the Chair will notify the Chair of the relevant Assessment Board.

## **19 Formal Stage**

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

## **20 Procedure for the Hearing of a Formal Stage Meeting and Discussion**

- 20.1 Where the Head of Department (or nominee) has given consent for the concern to be considered under the Formal Stage, or the outcome of the Informal Stage is that the case should proceed to the Formal Stage, a Chair of the Formal Stage Panel will be appointed within 5 working days, and will be provided with a full copy of the Investigation Report Form and relevant documentary evidence.
- 20.2 The Formal Stage Panel membership will comprise of:
- 20.2.1 The Chair appointed by the Head of Governance and Operations (or nominee) who has a casting vote;
  - 20.2.2 The Head of Department;
  - 20.2.3 A Head of School from another School/Department to which the student is enrolled;
  - 20.2.4 A Head of School from the same subject/professional area in which the student is enrolled.
- 20.3 Governance representatives will also be in attendance to take notes and advise on procedure.
- 20.4 Normally, within a maximum of 30 working days of the Chair's appointment, Academic Compliance and Governance will inform the student and the Investigating Officer, in writing, that they are required to attend a Formal Stage Hearing.
- 20.5 All parties will be provided with a minimum of 10 working days' notice of the hearing and will

be provided with the following information:

- 20.5.1 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;
  - 20.5.2 The student's right to be accompanied by a friend, and where to seek advice and support;
  - 20.5.3 A statement that the student may call witnesses who have relevant evidence to provide in respect of his/her defence and mitigation;
  - 20.5.4 The details of the date, time and venue of the Hearing and those who will be present;
  - 20.5.5 Reference to the Fitness to Practise Regulations (which can be as a link to the website where the regulations are located);
  - 20.5.6 If the case has proceeded from the Informal Stage, a copy of the relevant documentation related to this stage.
  - 20.5.7 The letter should invite the student to inform the Chair of any adjustments to the process owing to a disability or specific learning difficulty.
- 20.6 If there is a delay in organising the hearing, The Governance Analyst will keep all parties informed.
- 20.7 The student will be requested to submit a statement in his/her defence, the name of their friend, and witness(es) no less than 5 working days prior to the Hearing, and these will be circulated to the relevant parties prior to the Hearing.

## **21 Attendance of Witnesses**

- 21.1 Both parties may call witnesses, who have relevant evidence to provide, which may have a bearing on the material aspects of the case, to attend for the Formal Stage 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.
- 21.2 The Formal Stage 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.
- 21.3 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.
- 21.4 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.

## **22 During the Hearing**

- 22.1 The Chair will invite all those present to introduce themselves and will outline the procedure of the Hearing;
- 22.2 The Investigating Officer will present the case against the student including calling any witnesses;
- 22.3 Members of the Panel may ask questions of the Investigating Officer and any witnesses;
- 22.4 The student and/or friend may ask factual questions to seek clarification on any representations made by the Investigating Officer or any witness via the Chair;
- 22.5 The Chair will ask the student and/or friend to present their response and present any witnesses;
- 22.6 Members of the Panel may ask questions of the student and/or friend and any witness for clarification purposes;
- 22.7 The Investigating Officer may ask factual questions to seek clarification on any representations made by the student and/or friend via the Chair;
- 22.8 The Investigating Officer will sum up their case;
- 22.9 The student and/or friend will sum up their response which may include a submission in mitigation;
- 22.10 The Chair will ask the student and/or friend and the Investigating Officer to leave the Hearing whilst deliberations take place;
- 22.11 The Panel will consider the evidence in private and reach a decision in accordance with paragraph 23;
- 22.12 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.

## **23 Outcomes of a Formal Stage Hearing**

- 23.1 The Formal Stage 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 Formal Stage Panel shall:
  - 23.1.1 Make finds of fact.
  - 23.1.2 Decide whether the facts found to be proven amount to an impairment of fitness to practise by reason of misconduct or ill-health.
  - 23.1.3 Consider whether there are any mitigating or remediating factors which may affect the Panel's decision regarding the student's fitness to practise.

- 23.1.4 Consider any mitigating or extenuating 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).
- 23.2 The Formal Stage Panel may decide one of the following:
  - 23.2.1 Defer a decision pending the receipt of further information and/or advice;
  - 23.2.2 Dismiss the case, and no further action will be taken;
  - 23.2.3 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.
  - 23.2.4 Find the case proven.
- 23.3 Where the case is inconclusive (as in paragraph 23.2.3), the Formal Stage Panel may apply the following:
  - 23.3.1 Verbal Warning and/or;
  - 23.3.2 Additional monitoring or supervision for a defined period (for a maximum period of one year) and/or;
  - 23.3.3 A recommendation that the student engage with identified support mechanisms.
- 23.4 Where the case is proven (as in paragraph 23.2.4), the Formal Stage Panel may apply one of the following:
  - 23.4.1 The student's fitness to practise is not impaired to the point that remedial action is required;
  - 23.4.2 Written Warning;
  - 23.4.3 Continue on the programme whilst meeting identified conditions;
  - 23.4.4 Not permitted to continue on the programme until identified conditions have been met;
  - 23.4.5 The student is required to interrupt their studies for a specified period and be subject to identified conditions prior to reengaging with their studies;
  - 23.4.6 Discontinuation from the programme on the basis that the impairment of the student's fitness to practise is irremediable.
- 23.5 Where a student fails to comply with the Formal Stage Panel's decision, and/or penalty imposed then the student may be deemed unfit to practice and further fitness to practise proceedings may be invoked against him/her.

## **24 Procedure Following the Decision of a Formal Stage Panel**

- 24.1 Within 5 working days, all relevant parties shall be informed, in writing, of the decision of the Formal Stage Panel including the reasons for the Panel's findings, any sanctions imposed and the right to appeal the decision.
- 24.2 Where a Formal Stage 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 irremediable, in

accordance with paragraph 23.4.6, an Assessment Board will formally record a student as being discontinued and consider the student's profile to recognise any achieved credits.

- 24.3 As outlined in paragraph 7.5, where a case is proven, the College may disclose details of the case and/or specified conditions imposed with an employing organisation, placement provider, PSRB, or DBS.

## **25 Appeal Stage**

A student may appeal the decision of a Formal Stage Panel and/or penalty imposed. The Appeal Stage will not consider the issues afresh and will only consider appeals on certain grounds set out in paragraph 26.5.

## **26 Submitting and Appeal**

- 26.1 A student must submit a Fitness to Practise Appeal Form to Academic Compliance and Governance within 10 working days of the outcome of the decision of the Formal Stage Panel.
- 26.2 Only in exceptional circumstances will an appeal be accepted after the 10 working day cut-off date, and only then if made within 35 working days after the formal publication of the Formal Stage Panel decision. The decision on whether, exceptionally, to accept a late appeal will be at the discretion of 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.
- 26.3 Receipt of the appeal will normally be acknowledged by Academic Compliance and Governance within 3 working days of its receipt.
- 26.4 The request must identify the grounds and reasons for the appeal. If the relevant information is not provided, Academic Compliance and Governance will return the appeal to the student asking that he/she provide the necessary information. The student will have 5 working days to provide this information to Academic Compliance and Governance. 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.
- 26.5 An appeal can only be made on the following grounds:
- 26.5.1 That the decision of the Formal Stage Panel was inconsistent with and unsupported by evidence; and/or
  - 26.5.2 That there was a material procedural irregularity by the Formal Stage Panel which has prejudiced the student's case; and/or
  - 26.5.3 That new or additional evidence has come to light since the decision of the Formal Stage Panel, which could not reasonably have been expected to have been produced at the time of the consideration of case by the Formal Stage Panel.
- 26.6 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 and it will be at the discretion of the Appeal Panel Chair if additional time to submit the supporting evidence will be granted.

- 26.7 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 the Governance Analyst 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.

## **27 Initial Consideration of an Appeal**

- 27.1 The Governance Analyst, 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 24, 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 24, or it appears that the appeal is incomplete, frivolous or vexatious the Governance Analyst will forward the appeal to the Chair of the Appeal Panel who may dismiss the appeal in accordance with paragraph 25.4.1.
- 27.2 Where the appeal complies with the criteria set out in paragraph 24, the Governance Analyst will request the Chair of the Formal Stage Panel to provide a written report ('the Chair's Report') within 10 working days of receipt of the appeal.
- 27.3 The Chair's Report must normally contain:
- 27.3.1 Date of the Formal Stage Panel;
  - 27.3.2 A copy of all documentation considered by the Formal Stage Panel;
  - 27.3.3 The letter informing the student of the decision of the Formal Stage Panel;
  - 27.3.4 Minutes of the Formal Stage Panel;
  - 27.3.5 Any other information/statement which may assist the Chair of the Appeal Panel to reach a decision.
- 27.4 On receipt of the Chair's Report, the Governance analyst will forward the case to the Chair of the Appeal Panel who will determine whether:
- 27.4.1 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;
  - 27.4.2 There is sufficient evidence to request the Formal Stage 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 the Governance analyst. The Chair of the Appeal Panel must also

advise the student of his/her right to continue to pursue the case through the formal appeal process under paragraph 26. If the student remains dissatisfied with the decision of the Chair to refer it back to the Formal Stage Panel, the student should contact the Governance Analyst within 5 working days.

- 27.4.3 To request an Appeal Panel be convened to consider the case in accordance with paragraph 26 of these regulations.

## **28 Fitness to Practise Appeal Panel**

- 28.1 The Fitness to Practise Appeal Panel ('Appeal Panel') shall consist of three members who have had no prior material involvement (as explained in paragraph 6.1) with the student, or previously participated in the case under consideration. The Panel will have the following membership:
- 28.1.1 A Chair, who will be a senior member of staff;
  - 28.1.2 One elected officer from Bradford College's Students' Union;
  - 28.1.3 One senior representative of a School.
- 28.2 Governance representatives will also be in attendance in an advisory capacity and to take a formal record of proceedings.
- 28.3 Meetings of the Appeal Panel will normally be held within 20 working days of a request for a Panel to be convened. The student will be advised of the date and time of the meeting.
- 28.4 The letter should invite the student to inform the Chair of any adjustments to the process owing to a disability or specific learning difficulty.
- 28.5 At least 5 working days before the Hearing, the student and the Chair of the relevant Formal Stage Panel should confirm to the Governance Analyst who will be attending.
- 28.6 The papers to be considered by the Appeal Panel will be circulated to all parties prior to the Hearing.
- 28.7 During the Hearing:
- 28.7.1 The Chair of the Appeal Panel will outline the procedure of the meeting to all parties;
  - 28.7.2 The Chair of the Appeal Panel will ask the student and/or friend to present their Appeal;
  - 28.7.3 Members of the Panel may ask questions of the student and/or friend;
  - 28.7.4 The Chair of the Appeal Panel will ask the Chair of the relevant Formal Stage Panel to respond to the appeal;
  - 28.7.5 Members of the Panel may ask questions of the Chair of the relevant Formal Stage Panel;
  - 28.7.6 The student may ask for clarification on any representations made by the Chair of the relevant Formal Stage Panel;
  - 28.7.7 The Chair of the relevant Formal Stage Panel will sum up their case;
  - 28.7.8 The student and/or friend will sum up their response;

- 28.7.9 The Chair of the Appeal Panel will ask the student and the Chair of the relevant Formal Stage Panel to leave the meeting;
- 28.7.10 The Panel will consider the evidence in private and reach a decision in accordance with paragraph 29.

## **29 Decision of the Fitness to Practise Appeal Panel**

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

## **30 Procedure following decision of Fitness to Practise Appeal Panel**

- 30.1 Within 5 working 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.
- 30.2 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 College.
- 30.3 Where it is decided that the case shall be referred back to the Formal Stage Panel to reconsider its previous decision the Panel will be convened at the earliest opportunity and normally within 15 working days.
- 30.4 Where it is decided that the case shall be referred to a newly constituted Panel the Panel will be convened at the earliest opportunity.
- 30.5 The Chair of the Appeal Panel may nominate an observer to attend any reconvened Formal Stage Panel or newly formed Panel. The Governance Analyst will communicate the name of the observer of such Panel to the Chair of the reconvened Panel. The observer shall, if requested, provide clarification to the Panel on the recommendations/conclusions of the Appeal Panel.
- 30.6 The Chair of the reconvened Formal Stage 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 the Governance Analyst in writing, within 5 working days of its decision with reasons for its decision to the student. The decision of the reconvened Formal Stage Panel/newly constituted Panel shall also be reported to the relevant Assessment Board as appropriate.

### **31 The Office of the Independent Adjudicator for Higher Education (OIA)**

At the conclusion of the College'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>.

#### **Related Polices/Procedures/Regulations**

- Higher Education Student Appeals Policy
- Higher Education Work Based Learning/Placement Policy
- Higher Education Student Complaints Policy
- Higher Education Student Complaints Procedure
- Learning Support for Students with Disabilities and/or Learning Difficulties Policy

## Appendix 1

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 disclose 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 their DBS status within 5 working 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 effects 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 College 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 programme 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 College /practice, poor time management, infrequent attendance, poor communication, failure to accept or follow advice, previously proven Informal Stage(s));
17. Unprofessional digital presence;
18. Concerns, which may damage the public's view of a student's profession.