

# **Birmingham City University**

## **Fitness to Practise Procedure**

### **Introduction**

This procedure reflects our commitment to prepare our students to become effective, safe qualified practitioners. We aim to help students understand the requirements for entry to their chosen profession and help them to develop good practice and behaviour from the very beginning of their studies. Students will meet the requirements relating to behaviour and fitness to practise through academic and vocational studies, and, if there are any issues relating to meeting the requirements, we will deal with these as quickly as possible in an appropriate way.

This policy applies to all enrolled students of the University on a course which could lead to or allow registration with a professional, statutory and regulatory body (PSRB). There is a list of PSRBs on iCity.

This procedure meets the 'General principles applying to all Birmingham City University student procedures'.

### **What is fitness to practise?**

Being 'fit to practise' means being competent, responsible and having the characteristics needed to work in a particular profession. We have a duty to make sure you are fit to practise in your chosen profession. In assessing your fitness to practise, we give careful and ongoing consideration to your skills and ability, character, behaviour and physical and mental health. Although we recognise that you are still learning, you must make sure you are actively trying to meet the required standards and are not doing anything which might damage the public's impression of the profession you are studying to enter.

### **What is covered by this procedure?**

We will tell you what standards we expect of you as a student and we will tell you at the earliest opportunity if our assessments show you are failing to meet these standards. In most cases there will be no need to refer you to a formal investigation – we expect that informal discussions with you and clear target-setting will be appropriate to make sure you are fit to practise. However, a formal investigation will sometimes be necessary if we have concerns about your fitness to practise. This could be because of ongoing concerns being raised about your fitness to practise, a safeguarding matter or because of a single incident which threatens the safety of a service user or which could harm the public's view of the profession. A safeguarding matter is one which affects the human rights, health, or well-being of another person, particularly a child, young person or vulnerable adult.

The following will apply if we have concerns about your fitness to practise.

- For concerns that do not involve safeguarding matters or the safety of a service user, or concerns that only arise occasionally, you can expect to receive feedback on the things that have caused concern. This will usually involve setting targets for you to meet, and may be through a formal action plan.
- For concerns that involve safeguarding matters or the safety of a service user, or which may damage the public's view of the profession, or concerns which suggest a

pattern of repeated behaviour that does not change after we set targets for you, we will refer the matter for investigation.

We will not normally refer the following for investigation in relation to your fitness to practise.

- Your performance in an assessment.
- Concerns that cannot be directly linked to the relevant code of practice.

We will normally consider academic misconduct allegations under the Student Disciplinary Procedure. However, if the allegation against you relates to either altering information, buying or trying to buy someone else's work, or repeated academic misconduct, we may refer the matter for a fitness to practise investigation. This is because PSRB expect certain types of behaviour and characteristics which include the need for you to be honest and act with integrity at all times.

### **Who can raise a concern regarding your fitness to practise?**

Anyone who receives or is affected by your services ('service user') can raise a concern about your fitness to practise, including:

- University staff;
- practitioners or placement staff;
- other students; and
- members of the public.

Only in exceptional circumstances will we consider concerns that we receive anonymously, when there is a strong case – supported by evidence – that means that the matter should be investigated.

If University staff, practitioners or placement staff have concerns, they must send them to us using a reporting form ('**Raising Concerns Regarding Fitness to Practise**'). We will make the final decision as to whether the matter will be referred for investigation. We may need to agree conditions you must keep to before you are able to continue your studies.

### **Disability and fitness to practise**

We will review our standards if a disabled student may be at a significant disadvantage during an assessment. Although we will normally consider making reasonable adjustments during an assessment if you have told us you have disclosed a disability to the University, we do not have to make reasonable adjustments if we are assessing whether you are meeting a competency standard or if the adjustment would have a negative effect on the standard you are achieving. A competency standard is defined as an academic, medical or other standard which we apply to assess whether you have met the required standard in terms of competence or ability. We will make sure that the competency standards are objectively justifiable and an appropriate way of making sure you have the skills and ability needed for your chosen profession.

If your disability develops or is identified during your programme of study, or if you knew about the disability before starting your programme but it becomes worse and needs new or revised adjustments, we will consider the following.

- What could we reasonably do to make it easier for you to continue on the programme with your disability?

- Could you be putting yourself or others at risk of harm by continuing on the programme?
- Will placement providers or relevant professional bodies be prepared or able to make the required alterations to their part of the teaching and learning or assessment process?
- Did we tell you during the admissions process that the circumstances of your disability could lead to you needing to withdraw from the programme?
- Is it possible for you to transfer to another programme of study?

If it is not possible to make a reasonable adjustment, or to find you a suitable placement opportunity, it may be necessary for you to withdraw from a programme of study.

### **Criminal behaviour and fitness to practise**

You must tell us if you receive a criminal conviction or caution during your programme of study. Your student handbook or your programme director will tell you how to do this. Receiving a criminal conviction or caution will not automatically mean you will be withdrawn from your programme. After you tell us about a criminal conviction or caution, we will consider:

- the nature of the offence;
- any history of offending or similar behaviour;
- any circumstances that might explain your behaviour; and
- any unreasonable delay in telling us about the conviction or caution.

We will consider all factors, including the above, before deciding whether you are fit to practise.

### **Time limits**

If anyone has any concerns that may relate to your fitness to practise, they should raise these as soon as possible so that we can take action as necessary. If the concerns being raised are serious or need a formal investigation, you may be suspended from your placement with little or no notice. We aim to complete the formal stage, including any panel meeting, within 45 working days. To help us achieve this you must meet any deadlines we set for providing further information or documents and attending meetings. There will occasionally be circumstances when we need to extend the timeframe for different stages. (We will only do this if there is a good reason, for example if we need to wait for a key witness to be available to speak to us.) If this is the case, we will tell you and will explain the reasons for the delay and tell you the new timescales. We will provide regular updates on progress where appropriate.

### **Proving the allegation**

It is our responsibility to prove the allegation against you. We will base decisions on the balance of probability so will accept the explanation that is most likely to be true.

## **Student representation**

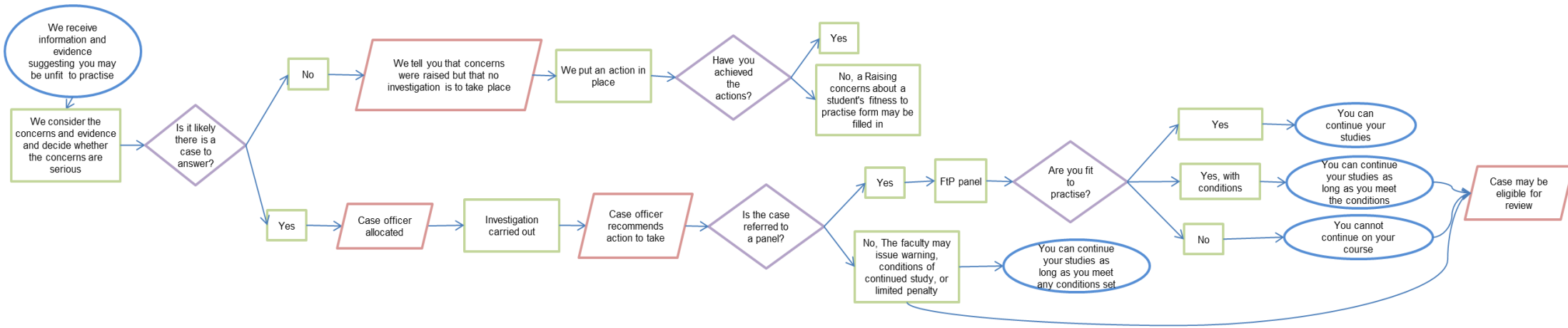
You have the right to take someone with you to meetings. This person is not there to act in a legal capacity. They are there to provide advice and support to you, not to act on your behalf. The Students' Union can help with this.

## **Confidentiality**

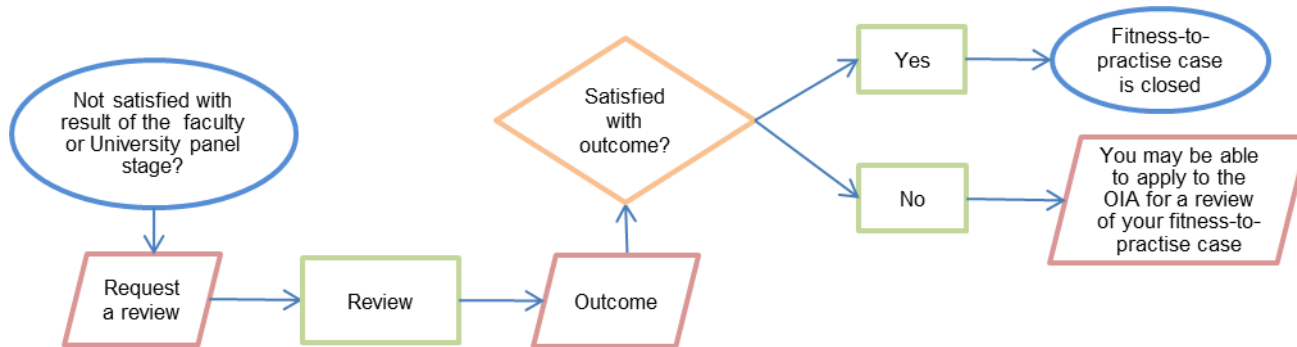
We will not share any information about you or any case against you unless we need to as part of our procedures or if there is good reason and urgent cause to do so. This could include passing information about your case to external agencies such as the police. Our 'Guidance on the production of references for students', which is available on iCity, explains what information we will share if we are asked for a reference.

## Flowchart of stages

### Formal stage:



### Review stage:



## **Stages of the procedure** (please see the flowchart)

This procedure aims to provide a quick process that is proportionate to the concerns being raised. There is a strong focus on staff having the power to deal with concerns as soon as possible. The Fitness to Practise Procedure has an informal stage, a three-step formal stage followed by the review stage (see the flowchart).

### **Informal stage – guidance and advice**

This stage is for concerns that do not involve the safety of a service user, or for issues which arise only occasionally. During the informal stage, issues are dealt with quickly and locally, often by the relevant University tutor, practitioner or placement staff member. In most cases, a conversation with you about your practice and how to improve will be enough to deal with the matter. To help with your ongoing development, we may put an action plan in place. If you do not make the necessary progress or if the issue is serious, it may move on to the formal stage.

### **Formal stage – triage, investigation and recommendation, and faculty or University panel**

The formal stage is to be completed within 45 working days of the fitness to practise concerns being raised. It involves assessing the concerns being raised and, where appropriate, carrying out a formal investigation. We may hold a faculty or University panel to consider very serious or complicated cases. The formal stage will involve the following three stages.

#### **(1) Triage**

For concerns that involve safeguarding matters or the safety of a service user, or concerns which may damage the public's view of the profession or show a pattern of repeated behaviour that the student has not changed after we have set targets, the person raising the concern should fill in the 'Raising concerns about a student's fitness to practise' form. This person must provide all supporting evidence within two weeks of sending us the form. If we do not receive the evidence within two weeks, we will not investigate the concerns but may still discuss them with you to provide you with relevant guidance and advice.

An associate dean or head of school (or someone nominated by the Student Complaints, Appeals and Discipline Committee) will consider the 'Raising concerns about a student's fitness to practise' form and the relevant evidence to decide whether there is a case to answer.

If we feel there is no case to answer, we will tell you about the concerns that were raised and, where relevant, put an action plan in place to help you.

If we feel there is a case to answer, we will refer the matter to a suitably trained case officer who will carry out an investigation. We will tell you if we do this and will give you information about the case officer who will investigate your case.

#### **(2) Investigation and recommendation**

The case officer will have no knowledge of you or of any previous fitness to practise or disciplinary matters you have been involved in.

The case officer will provide specific information about the concerns being raised, and will give you a copy of the evidence. We will invite you to a meeting with the

case officer to discuss the concerns and evidence. You have the right to take a companion with you to the meeting. This may be a friend, relative or member of the Students' Union. As the meeting will be held during normal working hours on any of the University campuses, we will expect you to attend. The meeting will only be rescheduled if the case officer decides there is a good or urgent reason for this.

The case officer will consider the fitness to practise concerns and may talk to relevant staff or students and refer to documents and other evidence. At the meeting, we expect you to give the case officer any evidence that it is reasonable for you to have. This may include copies of emails or letters, or statements from witnesses if it is safe and helpful to provide these. In exceptional circumstances, the case officer may ask you or any other relevant person to provide evidence or information after the meeting. You will receive copies of all evidence the case officer has considered during the investigation. The case officer will produce a report based on their investigation, which will outline the process they have followed, the information they have gathered, the evidence they have considered, their conclusions and their recommendations.

The case officer can make any of the following recommendations.

- There is no case to answer, so we will not hold a panel and will not take any further action.
- There is a case to answer, but it does not need to be considered by a panel. We may issue you with any of the following.
  - A guidance note about your future behaviour or requirements you must meet.
  - A written warning about your future behaviour or requirements you must meet.
  - A final written warning about your future behaviour or requirements you must meet.
  - A conditional learning agreement. You must meet the conditions set out in the agreement to be allowed to continue on the programme of study.
  - An action plan. You must keep to the action plan to be allowed to continue on the programme of study.
- There is a case to answer that needs to be considered by a panel.

The associate dean or head of school (or other approved person) that made the referral will consider the case officer's recommendation. At this stage, the associate dean or head of school may take into account any previous fitness to practise or relevant disciplinary matters against you when deciding whether to accept the case officer's recommendation. The head of school or associate dean can make the following decisions.

- To accept the case officer's recommendation without change.
- To accept the case officer's recommendation with minor changes.
- Not to accept the case officer's recommendation, but take a different course of action instead.

In all cases, we will tell you the outcome of the investigation and what action, if any, we have decided to take.

If the concerns are very serious and it is possible that we may decide to exclude you from the University, your case will be considered by a University panel.

This stage must be completed within 15 working days following concerns being referred for investigation.

### **(3) Faculty or University panel**

We will hold a faculty or University panel in line with our standard procedures for such panels.

The fitness to practise faculty panel can make the following decisions as appropriate.

- You are fit to practise, and we will not set any conditions which you must meet before continuing with your studies.
- You are fit to practise but you must meet certain conditions. We will set out these conditions in an action plan or learning agreement. If you do not meet the conditions set by the faculty panel, you will no longer be fit to practise and we may withdraw you from the programme of study. You may also receive a written warning or final written warning.
- You are not fit to practise and we may withdraw you from the programme of study. A faculty panel is not authorised to exclude you from the University.

If we find that you are unfit to practise, we will consider whether there is any other programme of study that you may be able to transfer or apply to. You will not be eligible to transfer or apply to a programme of study that has a fitness to practise requirement within five academic years of the decision to find you unfit to practise. If you apply to a new programme of study, the University's admission policy and criteria that are in force at the time of the application will apply. For information about what details we are allowed to share about you in any reference request, please see our 'Reference Policy' <to be confirmed>.

A University panel is authorised to make any of the above decisions, and also to exclude you from the University or any of our partner institutions.

### **Extending the time limit**

If there are clear and justifiable reasons for extending the time limit, we will set new time limits. The Complaints and Appeals Office will tell you the new time limits and the reasons for the extension.

### **Closing the fitness to practise action at the formal stage**

We will give you a clear explanation of the outcome of the formal stage of the fitness to practise action in writing, setting out the reasons for each decision in simple, straightforward language. We will record the outcome on our fitness to practise record system.

We will tell you about:

- your right to take the case to the review stage;
- the grounds on which you can do this (see below);
- the time limit for moving to the review stage (20 working days of receiving the outcome of the formal stage);
- the appropriate procedure to follow; and
- where and how to access advice and support, for example the Students' Union or Student Services.

If you do not take the case to the review stage within the time limit for doing so, we will close the matter.



## **Review stage – to be completed within 20 working days of receiving your request for a review**

If you are not satisfied with the outcome of the formal stage, you have 20 working days to ask for a review. There are limited grounds for asking for a review, which are as follows.

- There is new evidence which you were unable, for valid reasons, to provide earlier in the process, and which would have had a significant effect on the outcome of the formal stage.
- The correct procedure was not followed during the formal complaint stage and this has had a significant effect on the outcome.
- The outcome was unreasonable given all the circumstances and the evidence considered.

The purpose of a review is to consider whether we followed the correct procedure during the formal stage and whether the outcome was reasonable. At the review stage, we will not usually consider the issues again or investigate the matter further. Your case must have been considered at the faculty or University panel stage before it can move to the review stage. If your expectations appear to be beyond what can be achieved at the review stage, we will tell you this as soon as possible in writing to manage your expectations about possible outcomes.

You must submit a request for a review electronically, by email or through our website, by filling in the appropriate form. We will only accept a form submitted by someone else on your behalf if you have given the other person written permission to act as your representative for the review stage. You must set out your concerns clearly and briefly and provide evidence, where possible, of the issues raised. Only evidence that is clearly referenced in the form will be considered. We will acknowledge your request for a review within five working days.

The Complaints and Appeals Office will assess your request for a review and the Director of Student Services, or someone they nominate to act on their behalf, will use this assessment to decide between the following two possible outcomes.

- There are no grounds for taking the matter further. If this is the case, the Complaints and Appeals Office will tell you in writing and let you know about any right you may have to ask the OIA to review your case.
- There are grounds for reconsidering the case.

If there are grounds for reconsidering the case, the Director of Student Services, or someone they nominate to act on their behalf, will consider the following.

- Was the outcome reasonable in all the circumstances?
- Was there a mistake in how we used this procedure to assess your case and the outcome has been less favourable to you as a result?
- Have you received clear reasons for the outcome at the formal stage?
- If you have provided new evidence, have you provided valid reasons for not providing it earlier?
- Would any new evidence you have provided have affected the outcome (if there were valid reasons for not providing this earlier)?

The Director of Student Services, or someone they nominate to act on their behalf, will decide between the following two options.

- The case will be referred back to the formal stage with a recommendation.
- The issues are complicated and so it would be better to deal with them through a review panel.

We will hold a review panel in line with our standard procedures for such panels.

### **Extending the time limit**

If there are clear and justifiable reasons for extending the time limits, the Assistant Director of Student Services (Complaints and Appeals), or someone they nominate to act on their behalf, will set new time limits. The maximum extension will be 10 working days (that is, not more than 30 working days in total from the date we receive your request for a review).

### **Closing the case at the review stage**

We will give you a clear explanation of the outcome of the review in writing. This explanation will set out the reasons for each decision in simple, straightforward language and clearly state any action to be taken (if appropriate). We will record the outcome on our fitness to practise system. We will also let you know about any right you may have to ask the OIA to review your case.



### **List of professional, statutory and regulatory bodies**

Some of our programmes of study lead to registration or eligibility for registration with the following PSRBs.

Health and Care Professions Council (HCPC)

Nursing and Midwifery Council (NMC)

Solicitors' Regulation Authority (SRA)

Teachers' Standards

## Raising concerns about a student's fitness to practise

A registered professional should fill in this section to raise concerns about a Birmingham City University student's fitness to practise.

<b>Name</b>	Miss/Ms/Mrs/Dr/Prof
<b>Job title</b>	
<b>Employer</b>	
<b>Location of employment</b>	For example, Ward 6 Russell's Hall, or Old Tree Primary School
<b>Member of professional body</b>	List all that apply
<b>Governing code</b>	Must not be left blank
<b>Section or criteria of code felt to have been broken</b>	List all that apply. Must not be left blank

<b>Student name</b>	Miss/Ms/Mrs/Dr/Prof
<b>Student ID number</b>	
<b>Course of study</b>	

My knowledge of the events relevant to this matter is as follows:

[List events in date order. Please refer to any relevant documents which support the account, and attach the documents to this statement with reference numbers. Please make sure that your statement could be read and understood by someone with no knowledge of the case so that they would be left understanding what the allegation was and how the evidence you have provided is relevant to the allegation.]

I am attaching (or will provide within two weeks) the following evidence to support this statement.

Example

Document reference	Brief description of document	Attached or to follow
1	Hospital incident report form dated 1 June 2015	Attached

I am giving this statement in connection with my concerns that the student named above may have broken the relevant code governing the profession (which applies to their programme of study). I understand that:

- within two weeks of sending this statement to the University I must provide all evidence referred to in this statement;
- you may provide this statement to the student named above in the course of any University investigation into the concerns being raised; and
- due to confidentiality restrictions, you may not keep me informed of the progress of your investigation.

Your signature:

Date:

Send your filled-in form and any queries to [name, email address].

Notes to consider

1. Try to make sure the statement covers all relevant issues and only those that you have direct knowledge of.
2. Make sure that the statement does not include details that are not relevant or could be unfair, such as earlier offences or evidence about other similar offences.
3. Wherever possible, try to avoid any second-hand (hearsay) evidence, although we will accept hearsay evidence if there is no better evidence available.
4. Consider whether your witness statement is an important part of the case or whether it adds little to it or simply duplicates other evidence. Although it can be helpful to include more than one account supporting the same events, there will be a point at which duplicating evidence will just unnecessarily extend the time needed to deal with the case.

To be filled in by University staff:		
Date student started the current programme	Level of study	Has the student interrupted their study?
	4 5 6 7	Yes <input type="checkbox"/> No <input type="checkbox"/>

## Referral for investigation

The relevant associate dean or head of school should fill in this section. Recommendations made by the case officer will be returned to the person named below.

<b>Name</b>	Miss/Ms/Mrs/Dr/Prof
<b>Job title</b>	
<b>Faculty</b>	

<b>Student name</b>	
<b>Student ID number</b>	
<b>Course of study</b>	

<b>Governing code</b>	Must not be left blank
<b>Section or criteria of code felt to have been broken</b>	List all that apply. Must not be left blank

Reason for referral (tick all that apply):

- A complicated concern has been raised
- Harm or threat of harm to a service user or client
- Damage or threat of damage to the reputation of the profession
- A serious concern has been raised
- A sustained or repetitive pattern of behaviour
- The student is diagnosed with a disability after starting the programme
- The student receives a criminal charge or conviction after starting the programme

Your signature:

Date: