



General Regulations 4b:

Fitness to Practise Procedures –

Student Health and Disability

2024-2025

This document is available in hard copy and on the University intranet and internet sites. Please contact the Faculty Student Office or the Kingston Students' Union Advice Centre if you have any difficulty in obtaining a copy that you can read or find any aspect of these regulations difficult to understand.

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Section 1

Preface

Purpose and scope

- 1 These regulations relate to students registered on programmes of study including but not limited to the following professions:

- Pre- and post-registration nursing
- Pre- and post-registration midwifery
- Pre- and post-registration pharmacy
- Pre- and post-qualifying social work
- Education
- Osteopathy
- Acupuncture

These students may have responsibilities over and above those of other students at the University in relation to professional suitability. While different professions will have their own requirements for suitability, the procedures that should be followed when students' Fitness to Practise is called into question are common across the University. This is to ensure consistency, fairness, and transparency for students. For certain courses, it may be a requirement that students are already employed in the profession to which their course relates. In these instances, where the University is made aware of a Fitness to Practise issue, it will follow these Fitness to Practise regulations. While the University has no authority to remove a student from employment during or after a Fitness to Practise investigation, the University may notify the employer that a student is undergoing a Fitness to Practise investigation, and of the outcome of the investigation. Where an employer becomes aware of a potential Fitness to Practise concern in relation to a Kingston University student, the employer should notify the University, in accordance with the agreement in place between the University and the employer.

Definition

- 2 Fitness to Practise is defined as a student's ability to demonstrate the requirements and responsibilities of the profession related to their course of study. There are two types of Fitness to Practise: that which relates to students' conduct (General Regulations 4a) and that which relates to students' health/disabilities (General Regulations 4b). These regulations cover Fitness to Practise in relation to student health/disability.

Recording of Fitness to Practise hearings

- 3 The University will provide a written record of the stage 1 interview and stage 2 hearing which will constitute the official record of the meeting. These notes will be circulated to the student following the hearing for comments on matters on accuracy. While the University allows audio

recordings of lectures for study purposes, hearings may not be digitally recorded by students. The Chair of the panel will make this clear to the student at the beginning of the meeting. If the student records the hearing notwithstanding this advice, they may be subject to action under the Student Conduct and Behaviour Procedure GR3. This rule may be waived in cases where reasonable adjustments are required.

Confidentiality

4. The University is committed to complying fully with the Data Protection Act 2018 and the General Data Protection Regulations in its handling of personal data. Disclosure of information will be restricted to those parties involved in the consideration and administration of Fitness to Practise cases. There are, however, circumstances where the University's commitment to confidentiality is overridden by other considerations. These are:
 - i) When a student's health and safety, or that of others, is considered to be at risk.
 - ii) When a student is considered to be at serious risk of abuse or exploitation.
 - iii) When disclosure is required by law.
 - iv) When a student's current behaviour or health requirements compromise the University's responsibilities to outside agencies, including practice placements and partner institutions.
 - iv) When a student's current behaviour or health requirements compromise the University's responsibilities to other students to the extent that those other students are being adversely affected to the serious detriment of their academic progress.

Section 2

Procedures

Scope

- 5 These procedures concern situations where a student notifies the Faculty that they are unwell or have a disability which may affect their Fitness to Practise. Alternatively, a member of staff, student, employer, or placement provider may become aware of an issue relating to a student's health (including mental health), or disability, which had not been previously disclosed, and considers that this issue may affect the student's Fitness to Practise. In such instances, public safety must always be the overriding consideration, however staff should also take advice from the Disability and Mental Health Advisors in relation to the Equality Act 2010 when applying the Fitness to Practice regulations. The Disability and Mental Health Advisors should be contacted for advice where students who have a disability and/or long-term health condition requires reasonable adjustments to enable them to access this procedure.
- 6 For some students, potential practice concerns may be addressed by identifying and meeting support needs. Prior to Fitness to Practise proceedings commencing, efforts should be made to direct the student towards appropriate support mechanisms. This may include support from the Disability and Mental Health Advisors, if the student chooses to declare a disability, to investigate reasonable adjustments under the Equality Act (2010). It is recommended that the Faculty document such referrals.
- 7 Questions over a student's Fitness to Practise may additionally arise where, as part of the Academic Appeals process, an appeal has been upheld on the basis of retrospective mitigating circumstances on the grounds that the student lacked the rational judgment necessary at the appropriate time to deem themselves unfit to undertake assessments. In such instances, students will be required to undergo an occupational health assessment before they can return to clinical placements.
- 8 Student expenses associated with these Regulations will not be reimbursed by the University regardless of the subsequent outcome.

Accompaniment and Representation

- 9 Students required to attend a hearing may be accompanied or represented by a friend, family member, officer or staff member from the Kingston Students' Union Advice Centre, or a Trade Union or a professional association staff member, or legal representative. The student is required to inform the clerk of the hearing panel at least 5 university working days before the meeting of the panel whether s/he will be accompanied and if so, the name of the person and the capacity in which they are attending, noting specifically whether the person will be accompanying or representing the student. Where such notification is not

received, the hearing may need to be postponed. If the student does indicate that they will be bringing legal, Union, or other representation, the University reserves the right to also instruct a legal, Union, or other representative to attend. This may mean that the hearing date will have to be delayed while legal representation is secured. If a student has a disability, they will be contacted to ascertain whether they require reasonable adjustments to enable them to engage in the process. The Faculty should contact the Disability and Mental Health Advisors for advice on reasonable adjustments.

Stage 1: Notification of Concern

- 10 Where the student has approached the Faculty regarding their health or disability, the Faculty should proceed as per paragraph 10 below. There is an expectation that students should be able to recognise, where possible, when they are experiencing mental health or other health-related issues, and to seek help for this at the appropriate time. If there is evidence that students are unable to do this, a Fitness to Practise issue may arise.
- 11 Where the concern has been raised by anyone other than the student, the individual raising the concern should notify the Head of School (or nominee) in writing, attaching any relevant evidence. The person raising the concern is encouraged to identify themselves to the Head of School (or nominee), as anonymously raised concerns will only be considered in exceptional circumstances. Where the Head of School (or nominee) considers that a concern which is raised by a Kingston University student or member of staff, is vexatious or malicious, the matter will be referred for consideration at the appropriate level under General Regulations 3: [Student Conduct and Behaviour Procedure](#) or the Staff Disciplinary [procedures](#), respectively. Employers and/or placement providers may be notified of the concern if appropriate.
- 12 In the event that a student has already received a formal warning as a result of a Fitness to Practise investigation, the allegations relate to the same or similar matters and a prima facie investigation has determined the allegations have substance, the head of school in liaison with the Academic Registrar (or their nominees), may determine that the case proceeds directly to a Stage 2 Hearing.
- 13 Conduct of Investigation: The Head of School (or nominee) will appoint a Lead Investigator who has had no involvement with the case. Initially they should contact the Disability and Mental Health advisors to ascertain whether the student has declared a disability then discuss the issue informally with the student. Note that:
 - If the concern relates to the student's disability, including mental health, the Disability Mental Health Advisors should be contacted for advice on any reasonable adjustments which should be put in place.

- If the concern relates to the student's health, Occupational Health should be contacted for advice, to identify any reasonable adjustments that could be put in place to support the student.
- 14 The Lead Investigator will also collate evidence from staff, students and any other individuals involved (e.g., witness statements, incident reports, copies of correspondence) and determine whether, prima facie, there is a case to answer. If so, the Lead Investigator must notify the student in writing of the allegation within 10 University working days of the date that the Head of School (or nominee) was formally notified in writing of the allegation, attaching a copy of these regulations. The Initial Investigation will normally be held within 10 University working days of this notification.
- 15 If the student does not agree that they have a condition in relation to health or disability, or that an acknowledged condition is having or is likely to have a negative impact on practice, the Lead Investigator will ask for an independent assessment to be carried out by Occupational Health to confirm whether the student has such a condition and what impact the condition has on the student.
- 16 Following this assessment and the interview with the student, the Lead Investigator will conclude with one of the following conclusions:
- The student's health condition or disability does not render the student unfit to practise and the matter is regarded as closed. A note to this effect will be added to the student's file so that all parties are clear as to the agreed outcome. The Lead Investigator will inform the Head of School of the outcome;
 - the student's health condition or disability does not render the student unfit to practise but the student would benefit from additional support from the University, such as a personal tutor or consideration of reasonable adjustments;
 - The student's health condition or disability may potentially render the student unfit to practise, the member of staff leading the investigation will recommend to the Head of School (or nominee) that the matter is referred to a Fitness to Practise panel.
- 17 The student, the placement provider, the employer (for employment-based courses) and/or relevant Professional Statutory or Regulatory Body (PSRB) as necessary for the purposes of the proceedings, may be informed in writing that the matter has progressed to a Fitness to Practise panel. Any aggrieved party(ies) will be notified by the Faculty/departmental representative that the matter is being dealt in line with the University's Fitness to Practise Regulations.
- 18 A student has the right to appeal against a Stage 1 outcome if it is a final outcome (see Right to Appeal section below). It is not possible to appeal the decision to refer the matter to a Stage 2 Fitness to Practise Hearing.

Stage 2: Fitness to Practise Hearing

- 19 The Stage 2 Fitness to Practise hearing should normally be convened as soon as possible and normally within 25 University working days of the outcome of the Stage 1 Initial investigation. The constitution of the panel will vary depending on PSRBs' requirements, but should normally include:
- i) a Chair (from a different department / school),
 - ii) a representative from the Kingston Students Union,
 - iii) an external member who need not be external to the University, but must have professional experience relevant to Fitness to Practise and an ability to make an assessment of the student's fitness to practise in the relevant discipline,
 - iv) a clerk.

Panel members should have had no previous involvement in the case.

- 20 Not less than 15 University working days before the hearing, the Clerk to the panel will send the names of the proposed panel members to the student for information. If the student has any objections to any of the proposed panel members, they must notify the Clerk in writing within 2 working days, explaining the grounds on which they object to the appointment. If any such objections are received, the hearing may need to be reconvened to allow time to assemble a revised panel. If no objections are received, no less than 10 university working days before the hearing, the clerk to the panel must send to the student copies of the independent assessment carried out by Occupational Health and any other evidence or information that the panel intends to rely on during its deliberations. The student shall then have five university working days to respond in writing and submit any further information which she/he thinks might be relevant.
- 21 The student will not be expected to attend the hearing in person, however, should the student wish to present their case in person, this should normally be permitted. See section on accompaniment and representation.
- 22 The role of the panel is to deliberate formally and decide whether, in its opinion, the student is fit to practise and what, if any action should be taken. The panel will determine on civil standard of proof if, on the balance of probabilities i.e., whether it is more likely than not, the concern has been proven. The conduct of the hearing will be at the discretion of the chair but must include an opportunity for the panel to consider the independent assessment carried out by Occupational Health and any other relevant evidence or information required to make a judgement about the student's Fitness to Practise. An opportunity for the student to present themselves to the panel to present their case should also be included should the student wish to do so.
- 23 In deciding on an appropriate outcome, the panel should be guided by relevant PSRB requirements. Members should ensure that the outcome is proportionate and will deal effectively with the Fitness to Practise concern.

The relevant PSRB may also be notified as appropriate. If the panel members are unable to come to a consensus view as to the outcome, the matter shall be decided by a simple majority vote. In the event of a tie, the outcome will be decided in the student's favour.

- 24 The panel will agree one of the following outcomes:
- i) No concerns are present; therefore, no further action is required.
 - ii) Some concerns are present; however, these are not serious enough to warrant either suspension or discontinuation. The panel will therefore recommend that the student is closely monitored and supervised for a specified period of time, pending further assessment by Occupational Health. The arrangements for this should be clearly articulated in the recommendation. The panel may recommend that the placement provider, relevant PSRB and/or employer is notified of the outcome.
 - iii) Serious concerns are present; however, the student's condition in terms of his or her fitness to practise could improve in the future. It may therefore be recommended that the placement provider and/or relevant PSRB is notified of the outcome and/or that the student is suspended from his/her placement and/or from the University for a specified period of time, pending further assessment by Occupational Health. The arrangements for this should be clearly articulated in the outcome letter. For employment-based courses, the panel may agree that the employer is notified of the outcome.
 - iv) Serious concerns are present, and it is the panel's judgement that the student's condition is likely to have a permanent impact on the student's fitness to practise. Discontinuation from his /her course will therefore be agreed, the placement provider and PSRB notified, and the student withdrawn from the placement. For employment-based courses, the panel may agree that the employer is notified of the outcome. Prior to making a decision, the panel may wish to seek advice from Occupational Health on the student's likely prognosis. Occupational Health may in turn refer to a specialist (e.g.: a psychiatrist) in the area concerned. The panel should also consider whether the student should be permitted to transfer their registration onto an alternative academic qualification.
- 25 The Chair of the panel will provide a report summarising the case and the reasons for the panel's conclusions and confirm the outcome to the student within 5 University working days of the Hearing

Right to Appeal

- 26 Once a student receives the final outcome of either a Stage 1 Investigation or a Stage 2 Hearing, they may submit an appeal on one or more of the following grounds:

- The University's Procedures have not been followed and this has affected the outcome,
 - Based on the evidence available at the time, the outcome is unreasonable,
 - The student has new evidence which they were unable to provide earlier in the process, for valid and evidenced reasons, and this has affected the outcome,
 - There is evidence of bias or a reasonable perception of bias in the proceedings.
- 27 The student must put their appeal in writing and submit this, along with any supporting information, within five university working days of the date of their outcome letter to Academic Registry. Appeals which do not meet the grounds for appeal, or which are submitted late and do not provide compelling exceptional reasons, will not be considered. Academic Registry will let the student know if this is the case and will provide a Completion of Procedures Letter (see section on the Office of the Independent Adjudicator).
- 28 A member of staff, with no prior involvement in the case, will consider the appeal and provide an outcome in writing within 10 working days of its receipt. If the appeal is upheld, the Investigator may recommend that a fresh and independent Investigation into, or a Hearing of, the original allegations is undertaken or they may overturn the original decision and replace this with their own decision. The outcome of the appeal is final and as such the student will be issued with Completion of Procedures information (see section on the Office of the Independent Adjudicator).
- 29 Whilst an appeal is being considered, the outcome of the Investigation or Hearing will be suspended. This will not include any precautionary measures that have been agreed on health and safety grounds which will stay in place.

The Office of the Independent Adjudicator

- 30 The Office of the Independent Adjudicator, the "OIA" provides a free and independent scheme for the review of student appeals and complaints, which includes the right for students to appeal against our final decision. When a student has exhausted the University's internal processes, they will be issued with a Completion of Procedures letter which will allow them to take their case to the OIA for an independent review.
- 31 Applications to the OIA need to be made within 12 months of the date that the Completion of Procedures information was issued by us.
- 32 Further information about submitting a complaint to the OIA can be found on their website – www.oiahe.org.uk.