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## FITNESS TO PRACTISE REGULATIONS

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## **FP1 CONSIDERATION OF FITNESS TO PRACTISE**

**FP1.1** Fitness to Practise regulations apply to Nursing, Midwifery and Veterinary Nursing programmes. Students on these programmes are required at all times to demonstrate that they are trustworthy, of good character and in good health, in order that the University can affirm that they are fit to practice. The primary role of the nursing and midwifery regulator, the Nursing and Midwifery Council, is to ensure that registered nurses and midwives do not represent a risk to the safety of the public; this role is delegated to Approved Education Institutions for student nurses and midwives.

**FP1.2** The Fitness to Practise procedure provides a fair and effective process for considering cases where there is “cause for concern” about a student’s suitability for professional education and training, that is, their ‘fitness to practise’. What constitutes cause for concern is defined by the School with reference to the relevant Professional, Statutory and Regulatory Body (PSRB) code of practice.

**FP1.3** The procedure will be invoked where students’ behaviour gives cause for concern about their fitness to practise. Examples include behaviour that:

- i) is deemed to be damaging or dangerous to service users, other students or course providers;
- ii) creates unacceptable personal risk for the student or for others;
- iii) brings the profession or the University into disrepute;
- iv) is deemed to be detrimental to the safety, dignity, and wellbeing and personal and/or professional reputation of others;
- v) causes serious concern for their own safety or that of others.
- vi) is not commensurate with expectations of the student’s relevant Professional Code.

The procedure may also be invoked by referral from other University disciplinary procedures, such as where students are:

- i) found to be in breach of the University Disciplinary regulations with regard to Academic Misconduct at a level of ‘Malpractice’ or ‘Misconduct’
- ii) found to be in breach of the University regulations with regard to non-Academic Misconduct.

**FP1.4** The behaviour in question may normally arise within course activity (i.e. at the University or on Placement) however other behaviour or actions, particularly those warranting intervention of police or other authorised body, or which may lead to criminal charges, may also be considered under Fitness to Practise Regulations.

**FP1.5** Any member of academic staff involved with a student’s programme who has concerns regarding their Fitness to Practise should inform the Authorised Officer (normally the Dean of School) or his/her nominee in writing as soon as is practicably possible.

- FP1.6** Any member of staff in a placement area, external agency or any other person may raise concerns regarding a student's fitness to practise in writing to the Authorised Officer or his/her nominee as soon as practicably possible.
- FP1.7** Referral to the Fitness to Practise procedure will result in an initial investigation of the circumstances by the Authorised Officer or his/her nominee.
- FP1.8** The student will be notified immediately in writing of an impending investigation into the alleged "cause for concern" and its nature.
- FP1.9** Where the initial investigation indicates that the matter is of a serious nature and the student is on practice placement, if it is thought necessary because of the seriousness of the issue, the student may be temporarily withdrawn from the placement, with immediate effect, by the Authorised Officer or his/her nominee, pending further investigation in accordance with these procedures, the relevant professional body regulations or criminal proceedings.
- FP1.10** Consideration must be given by the Authorised Officer or his/her nominee as to whether there may be grounds for the student to be suspended or partially excluded from the University immediately, pending any investigation or hearing, or the conclusion of criminal proceedings or receipt of a satisfactory medical assessment.

## **FP2 INVESTIGATION**

**FP2.1** On receipt of a report of an alleged offence, the Authorised Officer (normally the Dean of School or his/her nominee) will decide on one of the following:

- i) Where the primary concern relates to "good health", a referral will be made to Occupational Health and their recommendations implemented, OR
- ii) Further investigation is required.

The student will be contacted within 10 working days.

**FP2.2** When further investigation is required, the Authorised Officer will appoint an appropriate member of staff as the Investigating Officer who will carry out an initial investigation and compile a report.

- i) The nature of all causes for concern must be notified to the student before an investigatory meeting takes place.
- ii) Where alleged causes for concern are based on anecdotal evidence the Investigating Officer tests the anecdotal evidence, for example by obtaining corroborating documentary evidence or by interviewing relevant people.
- iii) Copies of contemporaneous evidence relevant to all causes for concern must be retained in the FtP file, including placement learning records.

**FP2.3** The Investigating Officer's report will be sent to the student by the Investigating Officer within 10 working days of the preliminary investigation. The student shall either confirm its accuracy or ask the Investigating Officer to consider any proposed amendments within five working days of its receipt.

**FP 2.4** On receipt of the Investigating Officer's approved report the Authorised Officer will decide on one or more of the following:

- i) There is no case to answer and no further action is required.
- ii) Further investigation is required.
- iii) It is required that specific conditions be met or remedial actions be undertaken for example a submission of a written apology. Failure to meet or carry out the specific action or condition may lead to a meeting of the Fitness to Practise Panel
- iv) A written warning should be issued.
- v) A Fitness to Practise Panel should be convened

**FP2.5** The Authorised Officer will communicate the outcome under FP2.4 to the student within 5 working days of receipt of the Investigating Officer's approved report.

**FP2.6** Where FP2.4 v) is invoked, the Authorised Officer will convene a Fitness to Practise Panel hearing which will meet normally within 15 working days of the report being sent to the student. The letter of invitation will include a link to Fitness to Practise Regulations. The Panel will have no fewer than three and not normally more than four members, at least two of whom must be professionally qualified in the field and one of whom is normally be appointed from outside the University e.g. the relevant professional or partner body. In cases concerning students studying on a Midwifery programme, the Panel must consist of the Lead Midwife for Education (LME) and a Clinical midwife as the relevant professional member.

**FP2.7** The student will be given at least 10 working days notice of the date and time of the Fitness to Practise Panel meeting *unless* the student agrees to an earlier date.

**FP2.8** If the matter giving rise to the alleged offence(s) involves consideration of any documentation, the student will have the opportunity to inspect all the relevant documentation considered by an Investigating Officer and/or submitted by a student before the Panel Hearing takes place and shall be entitled to question the accuracy of such documentation up to five working days before the scheduled Panel Hearing.

**FP2.9** A student shall be entitled to be accompanied and, where applicable represented, by a person who can provide support and, where applicable, guidance to the student concerned at investigation meetings or hearings. That person may not be present either as a legal or trade union representative and must be a member of the Edinburgh Napier University 'community', i.e. a member of University staff, an office bearer or member of staff of Napier Students' Association, a member of staff from Edinburgh Napier Student Advice (ENSA) or another student. Any 'accompanying' person or representative must not have been involved in the incident under investigation.

**FP2.10** With regard to the Edinburgh Napier University 'community' as defined in FP2.9, only ENSA staff will be regarded as being permitted to represent the student. All other members of the 'community' will be regarded as accompanying the student.

**FP2.11** The student will be advised that if they do not attend the meeting without good cause being provided in advance, the Panel meeting may proceed in their absence.

**FP2.12** At the Panel meeting the Investigating Officer will be required to present his/her report and outline the concerns. The student will be given the opportunity to respond to the concerns raised, to ask questions or seek clarification. There will then be an opportunity for a fuller discussion, including questions from the Panel members, with particular emphasis being placed on any implications for the student's fitness for future professional practice.

**FP2.13** The student will then be required to withdraw from the meeting and the Fitness to Practise Panel will decide on any of the prescribed outcomes in Section FP3 below.

### **FP3 OUTCOMES**

**FP3.1** The Fitness to Practise Panel may decide on one or more of the following outcomes:

- i) There is no case to answer and no further action is required.
- ii) The Panel meeting should be adjourned because further investigation is necessary.
- iii) A written warning should be issued.
- iv) It is required that specific conditions be met or remedial actions be undertaken for example a submission of a written apology. Failure to meet or carry out the specific action or condition may lead to a further meeting of the Fitness to Practise Panel.
- v) It is required that the student undertakes a programme of observation, supervision, rehabilitation or treatment, subject to review by the Dean of School or his/her nominee after a given period.
- vi) A recommendation is made to the Programme Board of Examiners that the student intermits their study in accordance with the Academic Regulations.
- vii) The student terminate professional education and training and it is recommend to the Programme Board of Examiners that the student be given the option to transfer to an alternative non-professional practice course, (if available) or that the Programme Board of Examiners consider conferment of an award in accordance with the Academic Regulations and where enough credits have been accrued. In addition, it may be necessary to seek a further amendment by Convenor's action regarding referral to Disclosure Scotland – Duty to Refer.

**FP3.2** Where the offence is such that the student is considered unfit to undertake professional practice as in FP3.1 vii) above and the Panel is of the opinion that the relationship between the student and the University may be permanently untenable, the Panel may consult with the University's Appeals, Complaints and Conduct Officer (ACCO) on whether the matter should also be the subject of a hearing under the University's Student Conduct Regulations.

**FP3.3** Wherever possible the student will be invited back into the meeting to be informed of the outcome.

**FP3.4** Written notification of the outcome should be sent to the student within 5 working days of the Fitness to Practise Panel.

#### **FP4 INDEPENDENT EXTERNAL REVIEW**

**FP4.1** If on receipt of the outcome outlined in FP3.4 above, should the student remain dissatisfied they are entitled to ask the Scottish Public Services Ombudsman (SPSO) to look at the matter. The SPSO considers matters from students who remain dissatisfied at the conclusion of the University's procedures. The SPSO looks at issues such as service failure and maladministration (administrative fault) as well as the way the University has implemented its regulations. The SPSO will not consider matters that concern the exercise of academic judgment.

**FP4.2** The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about public services in Scotland. This includes any dissatisfaction following the completion of a university's internal procedures. If you remain dissatisfied with a university or co-operative after fully engaging with an internal procedure, you can ask the SPSO to look into the matter. The SPSO cannot normally look at matters:

- where you have not gone all the way through the university's specific procedure to deal with the matter, or
- that have been or are being considered in court.

The SPSO's contact details are:

SPSO  
Bridgeside house 99 McDonald Road  
Edinburgh  
EH7 4NS

Freepost SPSO

**Freephone** 0800 377 7330 **Website** [www.spsso.org.uk](http://www.spsso.org.uk) **Online contact** [www.spsso.org.uk/contact-us](http://www.spsso.org.uk/contact-us)  
**Mobile site:** <http://m.spsso.org.uk>