Fitness to Practise Policy and Procedure 2023-24

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# Purpose

* 1. Fitness to practise refers to the ability to meet professional standards, and London Metropolitan University recognises that in conferring certain academic awards leading to a professional qualification, it has a duty to ensure the fitness of students for practise and registration with the relevant Professional Statutory Regulatory Body (PSRB).
  2. Students on the courses listed in the Fitness to Practise Appendix are required to comply with PSRB standards and codes of conduct and may be subject to investigation under the London Metropolitan University Fitness to Practise Policy if matters related to their character, professional competence, conduct and/or health are brought to light and found to be of significant concern in relation to relevant PSRB standards and codes.
  3. The primary purpose of this Fitness to Practise Policy is to safeguard members of the public and to maintain public confidence in the professions covered by this policy.
  4. The safety of the student, as well as those around them in the University and their professional practice environment, is fundamental to the way in which this policy is implemented.
  5. The University needs to ensure that students are not awarded a qualification that permits them to practise a statutorily regulated profession if they are not fit to do so.

# Scope

* 1. Please refer to Fitness to Practise Appendix document for list of relevant courses relating to this policy and procedure.
  2. This policy should be read in conjunction with specific Fitness to Practise guidance and interpretation provided by individual courses.
  3. The relevant PSRBs referred to are as follows:
* Health and Care Professions Council (Dietetics, Physiotherapy, Counselling Psychology)
* Nursing and Midwifery Council (all fields of Nursing and Nursing Associate courses)
* Social Work England (Social Work)
* Department for Education (Initial Teacher Education)

# Principles

* 1. This policy follows the principles of natural justice and sets out a process where a student will receive a fair, accessible and unbiased hearing before any decision is made that will affect them and their potential progression on their course.
  2. The processes outlined in this policy include a supportive and developmental informal ‘Cause for Concern’ stage, which may resolve issues without the need for a Fitness to Practise Hearing.
  3. Students will be assisted to understand any allegations and/or concerns, how they relate to the relevant PSRB standards and the student’s fitness to practise.
  4. The Fitness to Practise process aims to be supportive to the student in all circumstances, even when the student’s progression on the course is affected.
  5. The investigation, any hearing, and any appeal will be carried out as quickly as possible, consistent with fairness. The University aims to complete the Fitness to Practise Procedures, including reviews, within 90 days of the student being notified of the concern.
  6. The Fitness to Practise process, including investigating the case and conducting any hearing, will aim to promote inclusivity and reduce any potential bias, ensuring the diversity of panel members.
  7. Reasons will be given for decisions reached about the student’s professional competence, health or behaviour, and courses of action resulting from decisions made will be proportionate.
  8. The student(s) will also be invited to inform of any reasonable adjustments they might require throughout all stages of the procedure.
  9. Where the student is registered with the Disability and Dyslexia Service (DDS), advice and guidance from DDS should be sought to ensure reasonable adjustments are made at both the informal and formal stages of the procedure.
  10. In a Fitness to Practise case the burden of proof will be on the University to establish the facts of the case based on evidence.
  11. The standard of proof will normally be ‘the balance of probabilities’, that is, it is more likely than not that something happened based on supporting evidence. The person (whether the University or the student) raising a concern in relation to Fitness to Practise or stating a particular fact is responsible for proving it. There is no need to prove facts that have been admitted or is proven by the existence of a relevant criminal conviction or substantiated Student Conduct case.

# Relevance of other policies and procedures to Fitness to Practise

* 1. Fitness to Practise is separate from and additional to Fitness to Study, or allegations of academic or other misconduct. A student is not exempt from other regulations or policies simply because they have been subject to Fitness to Study or misconduct proceedings arising out of the same set of facts or circumstances.
  2. A disciplinary matter might lead to Fitness to Practise proceedings if the behaviour that led to a substantiated report and sanction calls into question the student’s Fitness to Practise.
  3. Students on PSRB programmes of study facing a formal disciplinary process of a Fitness to Practise nature may be dealt with solely by Fitness to Practise, rather than any other disciplinary policy, to prevent the student from undergoing multiple hearings. Depending on the nature of the concerns, the Fitness to Practise policy may rely on the findings of a Student Conduct investigation to establish the facts of the matter.
  4. The University will consider relevant legislation such as the Data Protection Act 2018, the Mental Health Act 2007, the Mental Capacity Act 2005, the Human Rights Act 1998, and the Equality Act 2010 when making decisions under the Fitness to Practise Policy.
  5. In the interest of fairness in a particular matter, the University may:
     1. substitute any person of suitable seniority/experience in the University for any person otherwise entitled or required to act under this policy.
     2. alter the procedures prescribed by this policy, provided that the substitution or alteration is not to the detriment of the student.

# Fitness to Practise Concerns

* 1. Each PSRB has specific codes of conduct and standards that students are expected to adhere to but, in general terms, examples of issues that may lead to fitness to practise concerns include, but are not limited to:
     1. Academic misconduct (for example plagiarism, cheating in examinations, falsification).
     2. Other breaches of Student Conduct (for example antisocial, abusive, or threatening behaviour, sexual misconduct, violence, bullying or harassment, damage to property, internet access abuse, substance/ alcohol abuse).
     3. Health and safety breaches.
     4. Failure to disclose convictions or other information that the student is required to disclose.
     5. Inaccurate or falsified practice placement documentation.
     6. Unsafe practice, incompetence or requiring too much supervision.
     7. Repeated and/or serious unprofessional behaviour and/or breaches of the relevant PSRB code of conduct, including but not limited to:
        1. lack of respect, aggressive or poor attitude, laziness.
        2. indiscipline, failure to follow dress code, inappropriate use of mobile phone, poor time keeping, poor attendance.
        3. failure to self-reflect, lack of insight.
        4. failure to engage with investigations into unprofessional behaviour.
        5. poor self-management, lack of personal accountability.
        6. Dishonesty.
        7. breaking confidentiality of privileged information gained in the professional practice setting.
     8. Behaviour away from the student’s studies, including:
        1. criminal conviction e.g., violent offence; offence of dishonesty.
        2. disruptive behaviour in the community.
        3. inappropriate use of social media.
     9. Safeguarding concerns of any kind.
     10. Mental or physical health or serious physical impairment that interferes with the student’s ability to practise safely.
     11. Failure to seek help or engage with appropriate services in relation to health issues.
     12. Concerns regarding a student’s competency to meet the communication skills required by the relevant PSRB standards.

5.2. As part of good practice, the course should incorporate opportunities to work through examples of Fitness to Practise issues and competency requirements and for this to be addressed through assessment and feedback.

5.3. It is the University’s responsibility to support students to meet the standards that apply at each level of study with the understanding that the students may not meet all standards to a professional level initially but can improve. In serious issues, there may not be the possibility for the student to meet the PSRB requirements regardless of what stage they are in their academic journey such as certain criminal convictions or serious and repeated misconduct.

# Raising Fitness to Practise Concerns

* 1. The Fitness to Practise Policy may be invoked at any time during the student’s programme of study, including during the application and pre-enrolment phase. Any person who has concerns about a student’s Fitness to Practise may refer the matter for investigation including, but not limited to:
     1. A third party (for example, a fellow student, a relative, friend, colleague, placement provider, member of the public, medical professional) may report concerns about the student which raises questions about their Fitness to Practise.
     2. The student themselves may tell a member of staff that they have a problem and/or provide information, which raises questions about their Fitness to Practise.
     3. The outcome of other University proceedings, including criminal convictions, academic misconduct, non-academic misconduct, or fitness to study.
     4. Fitness to Practise concerns should be directed to the relevant Dean/Head of School for the student’s programme of study, or their designated Fitness to Practise Officer for the relevant course.
     5. To initiate a concern about Fitness to Practise, a written report should be made directly to the Fitness to Practise Officer who will initiate the process in the first instance, which may begin with Cause for Concern. Urgent matters may be reported verbally but a written report should follow as soon as practicable.
     6. When anonymous concerns are raised, the Fitness to Practise Officer will normally need to know the identity of the person raising these concerns to rule out the possibility that the report has been made maliciously. Witnesses who are giving their professional opinion are not expected to be anonymous. In such cases, the scope of the investigation and the action the University can take may be limited. The disclosure may be used for statistical purposes, and Safeguarding.
     7. Where concerns are raised by, or on behalf of, a service user (e.g., a patient, client, carer, parent, or school pupil), a student will be provided with enough information about the concerns raised to be able to respond. However, a practice placement provider may need to ensure that they protect the confidentiality of service users, particularly where they are children or vulnerable adults. In these cases, the Fitness to Practise Officer will obtain as much information and evidence from the practice placement provider as possible, which may include a summary of allegations made by service users, or anonymised witness statements.

# Cause for Concern

* 1. Cause for Concern is an informal preliminary supportive stage of the Fitness to Practise Policy, which is operated at course level.
  2. On receipt of an allegation relating to concern about a student’s fitness to practise, the relevant designated Fitness to Practise Officer will appoint an Investigating Officer, who will be a member of academic staff in the student’s programme area unconnected with the allegation and not the student’s personal academic tutor, to avoid any bias.
  3. The Investigating Officer will communicate with the student and any other relevant parties, to assess whether the student’s Fitness to Practise may be in question or whether the concern is about less serious issues.
  4. Where the concern is deemed not to be sufficiently serious to warrant instigation of the Formal Fitness to Practise Stage, the issues will be dealt with at course level to give the student an opportunity to improve or address the issues, for example via a supportive action plan.

# Suspension or termination from Practice Placement

* 1. Where serious concerns about a student’s Fitness to Practise have been raised, the Dean/Head of School (or their designate) may temporarily suspend a student from placement as a precautionary measure for a period pending a Fitness to Practise Hearing.
  2. Conditions where a student may be suspended from placement, pending a Fitness to Practise Hearing, include, but are not limited to:
     1. Threat of serious harm to the student and/or others.
     2. Gross misconduct/serious incidences of unprofessional behaviour.
     3. The student has demonstrated consistent unsafe practice.
     4. The student’s mental or physical health is at risk.
     5. Serious safeguarding concerns have been raised.
  3. Suspension from placement will be undertaken by the Dean/Head of School following discussion with the practice placement provider and the Head of Subject Discipline/Course Lead as appropriate.
  4. Students will be notified of their suspension at the earliest opportunity after the decision has been taken and a formal letter of placement suspension will follow within 5 days.
  5. The formal Fitness to Practise Stage will be progressed as soon as is possible to avoid prolonged suspension of the student.

# Concerns about behaviour that amount to a criminal offence

* 1. Where alleged misconduct is or could also be a criminal offence, the University may:
     1. Report the matter to the police or other relevant authority, but this does not affect the right of any person affected by the alleged misconduct to report it to the police on their own behalf.
     2. Defer acting until the police, Crown Prosecution Service and courts have dealt with the matter.
     3. Continue with its investigation, where it is confident that the University’s investigation will not prejudice or hinder the police investigation or criminal proceedings.
  2. A student is not exempt from proceedings under these regulations simply because they have been convicted of a criminal offence arising out of the same set of facts and double jeopardy cannot be claimed. Similarly, a student is not exempt from proceedings under these regulations simply because they have been acquitted of a criminal offence arising out of the same set of facts and double jeopardy cannot be claimed.

# Formal Fitness to Practise Stage

* 1. The relevant designated Fitness to Practice Officer will appoint an Investigating Officer for the Formal Fitness to Practice Stage, who will be a member of academic staff in the student’s programme area unconnected with the allegation and not the student’s pastoral tutor.
  2. Students will be informed about concerns that have been raised relating to their fitness to practise at the earliest opportunity, if they are not already aware from the Cause for Concern Stage.
  3. The investigation should include a meeting with the student about whom the concerns have been made, where the concern and evidence on which it is based is put to them verbally and in writing, and they are given an opportunity to respond.
  4. A student can decline to meet and/or may give a written response within 10 working days of being informed of the concerns. A student who refuses or fails to attend a Fitness to Practise interview, or provide a written response within the timescale, without good reason, shall normally be deemed to have declined the opportunity to meet.
  5. The Investigating Officer will only determine whether the Fitness to Practise concerns are raised should be escalated to Panel if Cause for Concern cannot, or has failed to, address issues (for example, the student refused action plan or failed to engage with agreed actions, with the concerns still present at end following implementation of an action plan).
  6. The student should be invited by an invitation letter, via email, to attend an interview. The student should be given at least 5 working days’ notice of the interview:
     1. a copy of any correspondence relating to the decision to escalate to the Formal Stage;
     2. a copy and/or reference to the relevant PSRB standards regulation and relevant competency or competencies being investigated;
     3. any evidence in support of the allegation; and
     4. a copy of this Policy
  7. The Investigating Officer will carry out an investigation into the events which led to the Formal Fitness to Practise Stage being instigated. These events may or may not have included precautionary termination or suspension of a placement. The Investigating Officer will gather evidence and witness statements where appropriate.
  8. Where Fitness to Practise concerns relate to a student’s health, the Investigating Officer may ask students to provide statements/letters from healthcare professionals who can provide evidence of their health status, including physical and mental health as appropriate. Should a student not wish for this information to be gained, the Fitness to Practise Hearing will be unable to consider claims from the student related to their health when hearing the case.
  9. If the student raises health issues as pertinent to the circumstances surrounding their case, but they have not had the benefit of previously consulting a healthcare professional, the Investigating Officer will encourage the student to seek healthcare advice and may accommodate this within the timescale of the Formal Fitness to Practise Stage. Furthermore, if the student discloses a disability or long-term health condition, that the student has previously not disclosed or received support for, the Investigating Officer should seek advice from the Disability and Dyslexia Services and where appropriate refer the student with their consent. The student may be referred to the University’s Occupational Health Provider. In respect of any hearing before a Panel:
     1. The student shall be given at least 5 working days’ notice of the hearing, which will include a list of witnesses and evidence that the Investigating Officer intends to call.
     2. The student can submit to the Student Casework Office no later than 3 working days before the hearing, a list of witnesses whom they intend to call, or Friend they wish to bring as support. It is the student’s responsibility to arrange for these witnesses to attend the hearing. The Panel may decline to hear a witness if their evidence is not relevant.
  10. Any student invited to Hearing can be accompanied by a “Friend” who shall normally be a member of staff, student at the University or Students’ Union advisor by way of support and not by way of legal representation such as a Solicitor or Barrister. The accompanying person’s capacity at the meeting is one of a silent observer. The Chair may permit the “Friend” to speak on behalf of the student if it would assist the investigation. The student is responsible for arranging the “Friend’s” attendance at the hearing.
  11. The University will not normally permit the student to have legal representation at a Fitness to Practise hearing unless the case is deemed to be complex, or where the consequences for the student are potentially very serious. The Investigating Officer will aim to complete the investigation within 20 working days of the concern being raised. Where additional time is needed to fully investigate the concerns the student will be informed and provided with a likely date of completion of the investigation.
  12. The Investigating Officer will produce a report based on their investigations and will make the case to proceed to a Fitness to Practise Hearing. The report and any evidence will be made available to the student so that they understand the issues raised and can reply to the concerns raised.
  13. Where a student’s Fitness to Practise is being considered because of previous findings under a disciplinary procedure, or a criminal conviction, the Investigating Officer and any panel is entitled to rely on the findings and further investigation of those facts is normally not required. In these cases, the student will be referred to the Fitness to Practise Panel where the panel will need to consider whether the established facts lead to a genuine Fitness to Practise concern, and if so, what action should be taken.

# Fitness to Practise Hearing

* 1. The Fitness to Practise Panel shall consist of:
     1. A Dean of School, or their nominee, who shall be Chair of Panel
     2. One member of academic staff, whether of the University or another Higher Education Institute, registered with the same PSRB as the one which regulates the student’s course, who must be unconnected with the case, not the student’s Pastoral Tutor, and have no other conflict of interest.
     3. One Senior Professional Practitioner registered with the same PSRB, as the one which regulates the student’s course, who must be unconnected with the case, experienced in dealing with Fitness to Practise in the relevant professional workplace, and have no other conflict of interest.
  2. The Student Casework Office shall appoint a clerk to the Panel, who is not a member of the Panel but will be present throughout the proceedings to take a written record and advise on regulatory matters.
  3. The student shall be invited to attend a Fitness to Practise Hearing with the Panel to discuss the concerns and all relevant issues. The student shall be given at least 5 working days’ notice of the meeting, which will include a summary of the concern(s) and evidence to be considered by the Panel, copies of any documents to be considered at the meeting and a list of witnesses that the Panel intends to call. Where necessary, this timeframe can be adjusted for support needs.
  4. The student will be given 5 working days from receiving notification of the Panel membership to identify any potential conflicts of interest with any panel members. The Chair of the Panel will have the final decision on panel composition in line with the guidance in this Policy.
  5. The student will be asked to provide copies of any documents they wish the Panel to consider to the secretary to the Panel at least 3 clear working days before the meeting along with a list of witnesses they intend to call. It is the student’s responsibility to arrange for these witnesses to attend the meeting.
  6. If the student or other witness is not able to attend for good reason, an alternative date may be arranged, at the discretion of the Chair. The student will be given at least 5 working days’ notice of the rescheduled date. If the student or other witness is unable to attend the rescheduled date, the student and/or witness may provide a written statement to be heard by the panel in their absence.
  7. The Fitness to Practise panel will proceed, and a decision on the case will be made without the student present, should a student decide not to attend a Fitness to Practise panel. This includes situations where a student has failed to acknowledge or respond to notification of the panel meeting where reasonable steps have been taken to notify the student of the Fitness to Practise panel arrangements.
  8. The Investigating Officer shall present to the Panel the facts of the case that have been established regarding any concerns related to their fitness to practise concerns.
  9. The Panel may call witnesses, institute enquiries, request further evidence (including medical evidence) and/or seek advice and support from legal advisers or other third parties to assist its deliberations and may adjourn its meetings to another time or place.
  10. Students are permitted to present their own case to the Panel, including asking questions of witnesses called by the Panel through the Chair of the panel.
  11. The Panel should consider mitigating and aggravating factors, such as the level of insight a student has shown, evidence of good practice, personal circumstances and previous concerns or patterns of behaviour. The student will be provided with the opportunity to put forward any mitigating factors before the panel decides what action it should take.
  12. The Panel shall decide whether the student’s Fitness to Practise is impaired and, if it is, what action should be taken considering the impairment. The panel is required to base their decisions on sound evidence and provide reasons for the decisions made.
  13. The panel will deliberate in private and reach its decision by majority vote. In the event of a tie, the Chair of the Panel shall have a second or casting vote. A record of the closed session will be kept so that the student can understand the reasoning that has led to the outcome of the Hearing. ,
  14. The Panel is encouraged to consider all possible outcomes, starting with the least severe outcome for the student, and may decide to act in one or more of the following ways:
      1. Take no further action.
      2. A time constrained action plan to remedy the concerns raised.
      3. Give the student a formal written warning, which will remain on record for a period to be determined by the Panel.
      4. Recommend, to the Dean of Students or their nominee, an exceptional change to the student’s Programme of Study.
      5. Postpone, subject to the Dean of Students’ (or nominee) approval, part of the student’s course (for example, a placement).
      6. Recommend to the University Awards Board the Termination of the student’s status as a student.
      7. Recommend that the student can be given an exit award, or transferred to a different programme of study without professional registration; and/or
  15. Recommend, to the Dean of Students (or nominee), that the student intermit her/his studies for a fixed period. The clerk to the Panel will notify the student of the decision of the Panel in writing within 5 working days of the date of the panel.
  16. The outcome of the Panel should be tied to evidence and professional regulations and standards. Reasons for decisions must be adequate, though clear so that the student can understand why the matter was decided as it was and what conclusions were reached.
  17. At the discretion of the Head of Subject, and in line with PSRB guidance, the relevant PSRB may be informed of the outcome of the Fitness to Practise Hearing.

# Fitness to Practise Review

12.1. A student who wishes to request a Review of a decision arising from a Fitness to Practise Panel Hearing may do soon one or more of the following grounds:

12.1.1. There is new material evidence that was unavailable, for valid reasons, or could not be provided earlier in the process at the time of the Fitness to Practise Hearing.

12.1.2. The procedures were not followed, there is an irregularity or misapplication of the policy in how the procedure was conducted. The action taken because of the Fitness to Practise Hearing is disproportionate, unreasonable, or not permitted under the procedures.

12.1.3. There was bias or reasonable perception of bias during the Fitness to Practise procedure and/or Panel Hearing.

12.2. Requests for Reviews on any other grounds than those stated in 12.5 will not be accepted.

12.3. The Request for Review must:

12.3.1. Be submitted in writing on the prescribed Fitness to Practise Review Form completing all relevant sections including full name, student number, signature of the student and date.

12.3.2. Identify the ground(s), and

12.3.3. Be accompanied by all relevant, independent, supporting evidence that the student wishes to rely upon to support their appeal.

12.3.4. Be received by the Reviewer, Head of Student Casework (or their nominee) within 10 working days of receiving official notification of the Fitness to Practise Panel’s decision. Reviews received after this deadline will be deemed invalid unless the student has demonstrated good reason for any period of delay.

12.3.5. Requests for Reviews should be submitted in person at the School Office, by email directly to casework@londonmet.ac.uk or by post addressed and sent directly to the Student Casework Office. The University does not accept responsibility for the receipt or late delivery of Reviews submitted by post or email.

12.4. After reviewing the decision and the request for Review, the Reviewer, may:

12.4.1. Reject a request for Review, if the request does not meet the requirements set out in paragraph 12.3 and issue a Completion of Procedures letter. Accept the Request for Review if it meets the grounds of Review specified in the Request for Review.

12.4.2. Reject the Request for Review if it meets the grounds for Review specified in the Request for Review and issue a completion of procedures letter.

12.4.3. If the Reviewer accepts the Request for Review meets the grounds of Review specified in the Request for Review, the matter shall be sent to a Fitness to Practise Panel for consideration, with such directions as the Reviewer considers appropriate.

12.5. When sending the matter to be considered by a Fitness to practise Panel:

12.5.1. if the Reviewer has found that the procedures were not followed, there was an irregularity or misapplication of the policy in how the procedure was conducted; or that there was bias or reasonable perception of bias during the Fitness to Practise procedure and/or Panel Hearing the matter shall be sent to a new Fitness to Practise panel to consider anew.

12.5.2. if the Reviewer has found that there is new material evidence that was unavailable, for valid reasons, or could not be provided earlier in the process at the time of the Fitness to Practise Hearing; or that the action taken because of the Fitness to Practise Hearing was disproportionate, unreasonable, or not permitted under the procedure, the matter may be referred to the same Fitness to Practise Panel for reconsideration, or to a new Fitness to Practise Panel to consider anew.

12.5.3. A decision of the Fitness to Practise Panel considering matter sent for consideration following a Request for Review shall be subject to a further Request for Review.

12.5.4. At this point, students who remain dissatisfied with the outcome have the right to submit a complaint to the Office of the Independent Adjudicator (OIA) for Higher Education. Students should refer to the OIA Website to establish whether their complaint is something that the OIA would consider. A complaint must be submitted to the OIA within 12 months of the University’s final.