

# NON-ACADEMIC MISCONDUCT REGULATIONS 2024/2025

<b>Title:</b> Non-academic Misconduct Regulations					
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## SECTION ONE: INTRODUCTION

- 1.1 Registered students of the University agree to be subject to the University's Student Code of Conduct and the Non-academic Misconduct Regulations and the associated Procedures. Failure to comply with the Code of Conduct will be treated as misconduct.
- 1.2 Confidentiality will be maintained, where possible, noting that:
  - Relevant staff will receive information that is necessary and proportionate to their role and involvement.
  - Information of a sensitive nature may need to be shared with those involved in the case.
  - Where a student is on a programme leading to professional registration there may be disclosure obligations on the University to the external body.
  - The University may need to share information outside the institution if this is necessary to protect the Reporting Student, the Responding Student, or others, from harm or prevent a crime taking place.
- 1.3 All parties must keep information that is disclosed to them as part of the process confidential. Any unauthorised disclosure of confidential information, including the recording, copying or distribution of video/audio recordings and paperwork associated with investigations and hearings, will be considered a disciplinary offence and will be addressed accordingly. The University will act in compliance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018.
- 1.4 Student conduct matters for students enrolled on a course leading to professional registration and/or a license to practise in a professional context will be dealt with under the University's [Fitness to Practise Regulations](#) and the associated Policy and Procedures.
- 1.5 Students may on occasion believe that they have cause to complain about the behaviour of another student towards them, which has affected them personally. Where the issues concerned have no bearing on University activities, they will not be dealt with under the University's Regulations and Procedures.
- 1.6 The Regulations and Procedures that apply will be those in operation during the year in which the allegation is received.
- 1.7 References to 'apprentice' throughout these Regulations refer to apprentices/Operational Policing students.
- 1.8 Breaches of the Student Code of Conduct by apprentices on policing courses/Operational Policing students will be reported to the apprentice/Operational Policing student's employer by the Dean of Faculty (or nominee). The procedures of the relevant police force will take primacy. No investigation under the University's procedures will take place until the outcome of the police investigation is known.
- 1.9 The Dean of Faculty (or nominee) will decide whether any allegation/ongoing investigation for apprentices on other courses should be reported to the employer.
- 1.10 Breaches of the Student Code of Conduct relating to sexual misconduct and violence will be considered under the Sexual Misconduct and Violence Policy and associated Procedures.

- 1.11 Breaches of the Student Code of Conduct by students who are also members of staff of the University may be dealt with under the Human Resources disciplinary procedures.
- 1.12 Students may make an allegation of misconduct against another student by a variety of means, including through the Report and Support system, directly to Wellbeing Services, or to any member of the University's staff.

## **SECTION TWO: REGULATORY PRINCIPLES**

### **General Principles**

- 2.1 The University has a responsibility to provide an environment that is safe, respectful and tolerant. Consequently, it is expected that students, their representatives and staff members act reasonably and fairly towards each other and treat the process with respect.
- 2.2 The University is committed to safeguarding the emotional, mental and physical well-being of all parties involved during the operation of its Non-academic Disciplinary Regulations and the associated Policy and Procedures.
- 2.3 The Student Casework Unit provides guidance to staff and students on the applicability and operation of the Regulations and associated Policy and Procedures.
- 2.4 The burden of proof determines whose responsibility it is to prove an issue. In relation to student conduct/fitness to practise allegations, the burden of proof rests with the University.
- 2.5 The outcome of any disciplinary or review hearing will be determined on the balance of probabilities, according to reasonable belief that the allegation is more likely to be true than not; this is called the standard of proof and is different from the criminal standard, which is beyond reasonable doubt.
- 2.6 Allegations of misconduct must be brought as soon as reasonably possible; ordinarily no later than three months after the last instance giving rise to the allegation. The exception to the ordinary timeframe of three months is for any case involving an allegation of misconduct which is also a criminal offence (see sections 2.21-2.27) or unless there is a good reason why the allegation of misconduct was not brought within the specified timeframe.
- 2.7 Where an allegation of misconduct is made against a group of students, a decision will be made on whether it is more appropriate to consider the case as a group or whether to consider each case individually.
- 2.8 A student who is the subject of an allegation (the Responding Student) has the right to be informed of, and respond to, those allegations so that they are able to defend themselves. Anyone making an allegation must accept that their statement and supporting evidence will be provided to the Responding Student. Consequently, allegations made anonymously will not normally be accepted by the University. In addition, the University will not normally take into account witness statements, where the witness requires that they remain anonymous. Whether to allow the consideration of

an anonymous allegation/witness statement will be the decision of the Head of Student Casework (or nominee), in conjunction with relevant colleagues as deemed appropriate.

- 2.9 The Responding Student will be given the opportunity to confirm or deny that the alleged breach of the Student Code of Conduct occurred. If the Responding Student admits in full the allegation as presented, the Dean of Faculty (or nominee) to which the student belongs or the Disciplinary/Fitness to Practise Committee will consider the facts of the case and any mitigating/aggravating/compounding factors and decide what, if any, sanctions should be applied. In this case, the full Procedure may not be followed but the student retains the right to request a review of the decision.
- 2.10 New or amended allegation(s) that are made, or become known, during the course of an investigation will be communicated to the Responding Student in writing. The Responding Student will be given the opportunity to comment on the new/amended allegation(s) and any comments made will be shared with all relevant parties. This may also result in (re)instigating the Risk Assessment Procedure to consider whether any precautionary action, or amendment to existing precautionary action, is required. In exceptional circumstances, the University may need to share information outside the institution if this is necessary to protect the Reporting Student, the Responding Student, or others, from harm or prevent a crime taking place.
- 2.11 The University Secretary (or nominee) has the authority to approve amendments to the composition of any committee or panel under these Regulations and Procedures.
- 2.12 A voluntary, mutual agreement between Reporting and Responding Students (a No Contact Agreement (NCA)) to limit the likelihood of contact, except for that which is necessary for their academic pursuits, may be put in place prior to or during the operation of this Procedure. An NCA does not constitute a finding of responsibility for breaching the University's Student Code of Conduct.
- 2.13 Where there is any ambiguity concerning which procedure should be applied due to the nature of an allegation, the Head of Student Casework (or nominee) will liaise with the Dean of Faculty (or nominee) before deciding on the appropriate procedure. An example of this may be when there are elements in the allegation which would be more appropriately considered under the Academic Misconduct Procedure. If more than one procedure applies and it is necessary to follow one before the other, the outcome of the first may be used to inform any subsequent procedure(s).

### **Covert recordings**

- 2.14 The University recognises that with advances in modern technology, it is easier to make covert recordings ie, recordings of meetings or conversations made without the consent of the participants. Where recordings are made of telephone calls, this activity is likely to be in breach of the Regulation of Investigatory Powers Act 2000/Investigatory Powers Act 2016 (as appropriate). In the case of recordings of face-to-face meetings, the material gained is likely to be held in breach of the participant's Article 8 right (to private and family life) under the Human Rights Act and the UK's data protection regulations.
  - a. In addition, a recording should only be used for the purpose for which it was made and should not be made available to a third party without the consent of the individual it refers to, unless there is lawful reason to do so.
  - b. For these reasons, the University will only permit the use of such recordings in student conduct cases, in exceptional circumstances.

- c. The facts that will be considered are:
- The extent to which the evidence is relevant to the issues in the case, including considering the nature of the evidence and if other, more cogent evidence is available.
  - The extent to which the evidence has been obtained unlawfully or its use otherwise interferes with privacy rights.
  - The extent to which the evidence can be relied upon from a technical perspective given that it is possible to manipulate recorded material. The availability of an independently created transcript of any recording may be helpful to satisfy this requirement.

### **Precautionary action for the purpose of investigation**

- 2.15 A Risk Assessment Panel may be convened under the Risk Assessment Procedure to make recommendations in the context of safeguarding<sup>1</sup> the Responding Student/Apprentice/Operational Policing student themselves, the Reporting Party, other members of the University community or the University's reputation.
- 2.16 If a case is particularly urgent or sensitive the University Secretary (or nominee), may approve precautionary action until a Risk Assessment Panel meeting can take place.

### **Advice and support**

#### Students

- 2.17 The Reporting Party (if they are a student) and the Responding Student will be referred to the Advice Zone and the University's Extenuating Circumstances Procedure, if they consider that the case has affected their academic performance.
- 2.18 Students involved in disciplinary procedures are allowed to have a support person with them at any discussions, meetings or hearings.
- 2.19 The Head of Student Casework (or nominee) reserves the right to refuse the attendance of a support person if it is determined that there is a conflict of interest relating to the nominated person, in which case, the student will be given the opportunity to nominate a different support person.

#### Staff

- 2.20 It is recognised that dealing with student conduct matters can also be distressing and cause pressure for staff. The University runs a Staff Support Scheme, details of which can be found on the Human Resources website. In addition, the Chaplaincy has considerable experience of dealing with sensitive matters and is available to offer formal and informal confidential advice and support.

### **Misconduct which is also a criminal offence**

- 2.21 The University has a duty of care to its staff and students and therefore must be informed of any alleged criminal activity by its students. If at any time during their registration as a student of the University, they are cautioned, or arrested for, or

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<sup>1</sup> The term safeguarding is used here to refer to the protection of health, well-being and rights of individuals.

charged with a criminal offence they are required to report this immediately and to report on the progress of any criminal proceedings to the University Secretary or Head of Student Casework (or nominees). If a student is sent for trial, the University Secretary or Head of Student Casework (or nominees) must be kept informed at all levels either by the student or by their solicitor/representative. If a student is subsequently convicted, then this must also be reported along with details of any penalty or sentence imposed. Failure to advise the University of a criminal offence, including a caution or reprimand, as soon as possible after the arrest, will be regarded as misconduct.

2.22 Applicants, after receiving an offer of a place, are asked to contact Enquiries and Admissions to disclose any 'unspent' convictions and associated sanctions, and/or any allegations under investigation, which are considered relevant.

2.23 Relevant convictions and/or allegations are those which have implications for the University's duty of care towards the safety of their students, staff and visitors. This includes but is not limited to convictions involving:

- violence;
- sexual offences;
- supply of drugs;
- firearms;
- arson;
- terrorism.

This may also apply to applicants who have been included on the barred list without conviction. The barred list contains details of individuals that have been banned from working with children or vulnerable adults due to past behaviour.

This is because the University may need to mirror any restrictions and conditions that have been put in place.

Failure to disclose may be regarded as misconduct under this Procedure. Further information can be found in Enquiries and Admissions' [Criminal Convictions policy](#).

2.24 The University expects that students will report an allegation of a criminal offence to the police; however, in some circumstances the allegation will be made by the University on behalf of the Reporting Party. In exceptional circumstances, the University will report an alleged crime to the police contrary to the wishes of the Reporting Party if disclosure of the information is necessary to protect the Reporting Party, or others, from harm or prevent a further crime taking place.

In deciding whether to make such a disclosure and in deciding what information to disclose, the University will take into account its obligations under the General Data Protection Regulations/Data Protection Act and any potential harm that the unauthorised disclosure may cause to the Reporting Party.

If the Reporting Party decides not to involve the police, they will still have the option of requesting that the University considers the matter under its Regulations and Procedures. The University may of its own volition, also decide to engage its Regulations and Procedures. In these circumstances, the case will be dealt with as a potential breach of the Student Code of Conduct and not as a criminal offence.

- 2.25 Conduct, which may constitute a criminal offence, may also amount to misconduct which, in addition to any criminal process, may be dealt with under this Procedure, if that conduct:
- took place on University premises; and/or
  - affected other members of the University; and/or
  - damaged or was likely to damage the reputation of the University; and/or
  - impacts on a student's fitness to practise and/or
  - may cause feelings of vulnerability within the University community.
- 2.26 The following applies where the alleged misconduct would also constitute an offence under the criminal law if proved in a court of law:
- a) No disciplinary action (other than precautionary action – see Risk Assessment Procedure) will be taken while a case is under investigation by the police and either the Responding Student has been prosecuted or a decision not to prosecute has been taken, at which time the Vice-Chancellor (or nominee) may decide whether disciplinary action may be taken.
  - b) Where a finding of misconduct is made and the Responding Student has been sentenced by a criminal court in respect of the same facts, the court's penalty will be taken into consideration in determining any sanction under the University's regulations. Further investigation by the University will not normally be required, as the conviction/caution will be taken as evidence that the behaviour took place. The Head of Student Casework (or nominee) in conjunction with the Dean of Faculty (or nominee) will determine whether an investigation is required.
  - c) When a custodial sentence of less than six months has been imposed, the Responding Student will normally be required to suspend studies for the duration of the custodial sentence. The Committee will consider the date of the Responding Student's return to studies, taking into account their individual circumstances.
  - d) Where the custodial sentence is more than six months or longer than the remainder of the duration of the Responding Student's course, the University will withdraw them. The Responding Student is able to request a review of this decision. The request for review will be considered by the Vice-Chancellor (or nominee) and a member of senior management. The role of the Review Panel is to consider whether the decision of the University Secretary (or nominee) was correct based on the current regulations and evidence available to them at the time; and to consider whether any new evidence could overturn this decision. In the case of a difference of opinion between the two members of the Review Panel, the Vice-Chancellor (or nominee) will have the casting vote.
- 2.27 A driving offence may be considered under the Fitness to Practise Procedure. In considering whether a driving offence calls into question a student's fitness to practise, the following will be taken into account:
- the nature of the offence;
  - whether the offence occurred in the course of undertaking professional duties;
  - if it is a repeat offence;
  - whether there are other circumstances connected with the offence.



### **Legal support/representation**

- 2.28 The University of South Wales' Procedures are not legal in nature and consequently, students should not need to have a legally qualified support person or representative at hearings/meetings. However, they are able to seek preliminary advice, without prejudice, on the scope and nature of evidence they intend to submit in support of a case that is particularly complex.
- 2.29 It is, however, recognised that where the consequences for the Responding Student are serious, they may wish to request that a legally qualified support person or representative attend any meetings or hearings with them. The process for requesting this is defined under the Procedure for Consideration of Legal Representation.
- 2.30 The University reserves the right to accept or refuse a request for a legally qualified support person or representative to attend any meetings/hearings, depending on whether a good reason is provided and the complexity and seriousness of the case (see section 3 of the Procedure) . Should such a request be approved, the University reserves the right to also have a legally qualified person/representative in attendance. Legally qualified support persons/representatives will be clearly informed of the nature of the proceedings, ie, that they are not a legal process and will not be conducted as such.

### **Sanctions**

- 2.31 There are a range of sanctions that the University can apply at different stages of its Procedures. Amendments to these may be considered and applied as a reasonable adjustment depending on the student's individual needs.

#### Written apology

- 2.32 The Responding Student may be required to write a written apology; this could be to the relevant individual, or to the University. If the University is dissatisfied with the apology, the Responding Student may be asked to re-write it or the case may be referred back for further action under the Student Conduct Procedure.

#### Warnings

- 2.33 There are three categories of formal warnings that may be issued depending on the seriousness of the misconduct.
- Verbal warning
  - Written formal warning – will remain on record for a specified period, normally one year. Any repeated occurrence of a similar offence may result in the Responding Student being referred to a Disciplinary/Fitness to Practise Committee.
  - Final written warning – any further cases of misconduct may be dealt with directly by a Disciplinary/Fitness to Practise Committee, and the proven offence will be taken into consideration when determining a sanction.

#### Charges

- 2.34 The Responding Student may be required to make good any damage they have caused at their expense, up to £1000. The charges will be paid to the owner or

possessor of the property damaged. Consideration will be given to the means of the Responding Student, and they may be allowed time to pay the sum or be allowed to pay the sum in prescribed instalments.

#### Restrictions/conditions

- 2.35 Restrictions or conditions may be imposed on the Responding Student. Examples are: support to be sought from Student Services; no direct contact to be made with another student (No Contact Order (NCO)). Where it is deemed in the student's best interests, a referral may be made to an educational programme.

#### Exclusion

- 2.36 A University Disciplinary Committee/Fitness to Practise Committee (see Sections Three and Four below) has the authority to exclude the Responding Student from specific campuses, certain areas of a campus, such as the Students' Union, Halls of Residence or the Sports Hall. In such cases, the Responding Student will normally be allowed to attend the University for education and support purposes only.

#### Suspension

- 2.37 A University Disciplinary Committee/Fitness to Practise Committee (see Sections Three and Four below) has the authority to suspend the Responding Student from the University on disciplinary grounds for such period as the Committee considers just and reasonable in the circumstances. Conditions may be imposed on the Responding Student's return to study. Responding Students who are suspended may be required to pay a proportionate amount of fees dependent upon an assessment of fees already paid and the teaching already received. Any marks that have not been ratified by the assessment boards prior to the suspension may be removed.

#### Withdrawal

- 2.38 A University Disciplinary Committee/Fitness to Practise Committee (see Sections Three and Four below) has the authority to require the Responding Student to withdraw from the University on disciplinary grounds. The Responding Student may be required to pay a proportionate amount of fees dependent upon an assessment of fees already paid and the teaching already received. Any marks that have not been ratified by the assessment boards prior to the expulsion may be removed.

#### Application of sanctions

- 2.39 The sanctions set out in the Guidelines for the Application of Sanctions are illustrative only.
- 2.40 Multiple or repeated incidents of misconduct may be more serious than a single act of misconduct and previous findings may be taken into account when determining what sanction should be imposed.
- 2.41 Sanctions may be imposed on responding parties who have graduated, where an offence took place whilst they were a student at the University. This would normally constitute a formal written warning that would remain on the Responding Student's record for a specified period of time.

### **Mitigating, aggravating and compounding factors**

- 2.42 The University will consider mitigating, aggravating and compounding factors when deciding on a sanction in relation to upheld allegations.
- 2.43 Examples of mitigating factors that the University may take into account include (but are not limited to):
- admitting to, and demonstrating genuine remorse for actions;
  - evidence that the offence was committed without the intent to cause harm, damage or upset;
  - there has been an attempt to make amends;
  - engagement with educational programmes relevant to the offence;
  - insight into, and the impact of the offence;
  - the Reporting Party has requested leniency.
- 2.44 Examples of aggravating factors that the University may take into account include (but are not limited to):
- the use of force/violence/threats/intimidation;
  - the use of drugs/alcohol;
  - no insight or remorse;
  - the Reporting party has requested enhanced sanctions.
- 2.45 Examples of compounding factors that the University may take into account include (but are not limited to):
- prior history of misconduct;
  - previous misconduct of a serious nature;
  - cumulative breaches.

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

- 2.46 If the Responding Student, Reporting Party or witnesses are unhappy with the outcome of a case considered under the Non-academic Misconduct Regulations and Procedures, they may, following issue of a University Completion of Procedures Letter, lodge a complaint with the OIA.
- 2.47 Details of the OIA and the relevant information in relation to the Scheme can be accessed at [www.oiahe.org.uk](http://www.oiahe.org.uk). Further information and advice can be obtained from the Student Casework Unit.

## SECTION THREE: STUDENT CONDUCT

### Procedural Stages

#### Stage 1: Non-major misconduct

- 3.1 Non-major misconduct is an act or behaviour which is not serious enough to constitute major misconduct. Some non-exhaustive examples of non-major misconduct are provided below, and can include acts committed using technology, including social media as well as in person:
- anti-social behaviours which cause upset or distress to other individuals;
  - damage to property without malicious intent;
  - failure to comply with the reasonable request of an authorised individual;
  - failure to provide a name and address to an officer or employee of the University when reasonably requested to do so;
  - acts/omissions that did cause or could have caused a health and safety concern on University premises or during University activities (for example, smoking cigarettes in non-designated areas).

See the Procedure for Stage 1: Non-major Misconduct

#### Stage 2: Major Misconduct

- 3.2 An act or behaviour is defined as major misconduct where it may cause the University to question a student's ability to fulfil their obligations under the Student Charter and Student Code of Conduct. Some non-exhaustive examples of major misconduct are provided below, and can include acts committed using technology, including social media as well as in person:
- serious or persistent acts of intimidation, bullying or harassment;
  - physical assault;
  - serious threatening, offensive or indecent behaviour;
  - discriminatory treatment of others in contravention of the University's Strategic Equality Plan or Dignity at USW policies;
  - theft, fraud or falsification of records;
  - serious infringement of University regulations including the IT Computing Regulations and Health and Safety Policy;
  - carrying or use of an offensive weapon or firearm;
  - multiple or repeated acts of minor misconduct.

See the Procedure for Investigations into Cases of Student Misconduct and the Procedure for Disciplinary/Fitness to Practise Committees Hearings.

Allegations of sexual misconduct and violence will be considered under the Sexual Misconduct and Violence Policy and associated Procedures.

#### Stage 3: Request for Review

##### ***The Responding Student***

- 3.3 The Responding Student has the right to request a review against the outcome and sanctions applied under this Procedure.

- 3.4 It is the Responding Student's responsibility when requesting a review to demonstrate, on the balance of probabilities, that there is evidence to show that one or more of the grounds stated in the Procedure applies.
- 3.5 The process is outlined in the Procedure for Requests for Review.

### ***The Reporting Party and Witnesses***

- 3.6 If the Reporting Party or any witnesses (who are students at the University) are dissatisfied with the way in which the Procedure has been handled, they may be able to submit a complaint using the Student Complaints Procedure.

### **Investigations**

- 3.7 The Investigation process is as outlined in the Procedure for Investigations into Cases of Student Misconduct.
- 3.8 The Investigating Officer will determine whether they need to interview any witnesses identified by either the Reporting Party or the Responding Student. In order to do so, they will have to disclose to the witness details of the case under consideration but will ask them to maintain confidentiality.
- 3.9 Following completion of the investigation, the Investigating Officer's report will be presented to the Dean of Faculty (or nominee). A decision will be taken as to whether there is a case to answer and, if so, whether the case should be referred to a University Disciplinary Committee.

### **Disciplinary Committee Hearings**

- 3.10 A Disciplinary Committee will consider serious cases of misconduct by students. Disciplinary Committees will be constituted as follows:
- one member of the University's senior management (Chairperson);
  - one staff member of the Academic Board;
  - the President of the Students' Union or nominee.

Disciplinary Committee hearings will be serviced by a Secretary, who is not a member but will be present throughout the proceedings. The Secretary will be the Head of Student Casework (or nominee).

The members of the Disciplinary Committee will have had no previous involvement with the case(s) or association with the student(s). The Students' Union representative will not have previously supported the student during the case.

The Responding Student will be informed of the constitution of the Committee prior to the documentation being circulated and will be given the opportunity to raise any concerns in relation to membership, for example if they have grounds to consider that a member may be biased.

If the Responding Student is an apprentice/Operational Policing student, an employer representative will also be invited to attend as an observer.

- 3.11 The functions of the Disciplinary Committee are as follows:

- a) To consider reports from Investigating Officers in respect of serious allegations of misconduct.
  - b) To establish, as far as possible, the facts of the case, and call witnesses where necessary.
  - c) To consider appropriate action.
  - d) To agree that there is no case to answer. Under these circumstances, the University will ensure as far as possible that the Responding Student has not been disadvantaged by any disciplinary action or suspension.
  - e) To report its decision to the Vice-Chancellor and the University Secretary.
- 3.12 Sanctions, other than suspension and withdrawal, will only be imposed after the request for review period has expired.

## SECTION FOUR: FITNESS TO PRACTISE

### Principles

- 4.1 The Fitness to Practise Regulations relate to courses that lead to professional registration, both initial and/or further annotation/registration, and/or a license to practise in a professional context and are characterised as being service-centred/client-centred/patient-centred and directed towards the achievement of professional competence and/or professional registration. Additionally, these Regulations may apply to courses which facilitate entry to courses which lead to professional registration and/or a license to practice (please see Appendix 1).
- 4.2 The University will, when necessary, take action under its Fitness to Practise Regulations and associated Policy and Procedures to:
- protect present or future patients, service users or clients (ie, public protection);
  - demonstrate robust processes to protect the public;
  - comply with the requirements of Professional, Statutory and Regulatory Bodies (PSRBs).

In its application, the University's Fitness to Practise Regulations protects the University if in future an employer, and/or the general public and/or ex-students were to question our process and subsequent decision making.

### Professional misconduct

- 4.3 The Student Code of Conduct includes a list of **non-exhaustive** examples of behaviour and conduct, which would constitute professional misconduct and thereby trigger an investigation of a student's fitness to practise. These apply to all aspects of a student's professional and personal life, including online activity and social networking.

### Professional unsuitability

- 4.4 Professional unsuitability may be demonstrated in numerous ways. The following are common indicative examples:

- a) Failure to adhere to process and procedures and inappropriate attitude or behaviour which may be manifested by:
- failure to accept and follow advice from the University or placement/practice learning provider;
  - failure to follow recommended procedures/practices that may put other people, clients, students, staff at risk of harm;
  - persistent lack of motivation or interest and/or non-participation in learning activities (eg practice learning/placements, presentations, timetabled academic sessions, academic or pastoral tutorials, clinical skills sessions, direct client care);
  - non-attendance at class, practice learning/placement or other relevant appointment;
  - poor application to and failure to submit work;
  - continuously failing required professional competencies/proficiencies.
- b) Unprofessional behaviour which may be manifested by:
- misuse of the internet and social networking sites;
  - failure to keep appropriate professional or sexual boundaries;
  - breach of confidentiality;
  - unlawful discrimination;
  - persistent rudeness to people, colleagues or others;
  - unsocial behaviour that adversely affects the proper operation of the professional practice context;
  - dishonesty.

### **Health concerns**

- 4.5 The University recognises that students may have, or may develop, health conditions that may impact upon their fitness to practise. In most cases, health conditions (including disabilities) will not raise concerns in relation to a student's fitness to practise. The University's inclusive practices and procedures are primarily designed to meet the needs of students with disabilities; further adjustments can also be made to ensure students are not disadvantaged due to a health condition/disability, taking into consideration any health and safety issues. Students may also be asked to adjust their practice to ensure they are able to study and work safely and effectively.
- 4.6 Unfortunately, there may be circumstances when a student's fitness to practise is impaired, and it is not possible to provide reasonable adjustments due to health and safety/other restrictions. This may make it impossible for a student to graduate with a professionally approved/accredited award, preventing them from entering further training, registering or obtaining further annotation/registration with the relevant professional body.
- 4.7 The University will consider what evidence, if any, it requires from the student so that it can properly assess their fitness to practise and support them in their studies. This might include medical evidence and/ or occupational health referral. The University will support students in obtaining this evidence, for example, by directing them to the appropriate expert and paying for the report where this is proportionate. The evidence provided by the appropriate expert must reflect the student's fitness to undertake practice safely.

### **Advising students of professional standards**

- 4.8 Each faculty must ensure that its students are aware of the relevant professional standards and should have its own internal arrangements to monitor and ensure the fitness to practise of students.
- 4.9 These arrangements will include:
- provision of a student contract which includes reference to the issue of fitness to practise;
  - provision of advice to students regarding standards of professional behaviour, eg, as described in student handbooks and/or guidelines from appropriate professional bodies;
  - provision of appropriate induction sessions on professional conduct and fitness to practise and what it means;
  - provision of details of the relevant professional body requirements to students, including those relating to the student's eligibility to register and to the dean of faculty's obligation with regard to declaring them fit to practise;
  - provision of a copy of the Fitness to Practise Procedure and the Student Conduct Procedure;
  - a process for identifying alleged cases of unfitness to practise, for carrying out the requirements of this Procedure and of any additional school requirements pertaining to the subject area.

### **Professional Statutory and Regulatory Bodies (PSRBs) sign off**

- 4.10 Some PSRBs require a Registrant from that body, who is also a senior member of academic staff within the discipline area, to sign off each student as being professionally suitable before the candidate will be allowed to register. While any case considered through this Procedure may inform this decision, the decision is one for the Registrant to make as required by the PSRB and is not subject to appeal or review through the University.

### **Procedural Stages**

#### Suspension from placement or area of practice learning

- 4.11 A placement provider may suspend a student from placement or area of practice learning, under its own procedures, and prior to referral to the Fitness to Practise Regulations and associated Policy and Procedures, and/or may seek advice from the University regarding suspension, if it asserts that the student is not fit to practise<sup>2</sup>.
- 4.12 The Course Leader (or nominee) should normally be informed immediately of a suspension but where circumstances make this impossible, the Course Leader (or nominee) must be informed within two working days.
- 4.13 The Course Leader (or nominee) may also instigate the suspension of a student from placement or area of practice learning
- 4.14 Examples of circumstances which would necessitate a suspension from placement or an area of practice learning, include (but are not limited to):

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<sup>2</sup> See also the *Partnerships Manual* - <https://academicregistry.southwales.ac.uk/gae/>



- alleged criminal activity which resulted in an arrest by the police and is subject to ongoing investigations or pending a court hearing, including being subject to police bail;
  - any safeguarding concerns relating to children or adults at risk;
  - any concerns relating to client safety and /or public protection whereby they have been suspended from an employment;
  - any allegation related to dishonesty, fraud, and sexual misconduct raised by an employer or an individual, including ongoing investigations by NHS Counter Fraud Service Wales, and equivalent U.K. bodies;
  - any investigation undertaken by a UK health and social care regulator, for example Care Council Wales, Solicitors Regulation Authority, and the General Dental Council.
- 4.15 The student will normally be suspended from the placement or area of practice learning until the outcome of an investigation is known.
- 4.16 If the student is on a Tier 4 visa, the Course Leader (or nominee) must inform the Head of Compliance, who will report the change in circumstances to UK Visas and Immigration (UKVI).
- 4.17 Where a safeguarding issue is identified and/or the case against the student is very serious or criminal in nature, the case should be referred to Student Casework, that will instigate the Risk Assessment Procedure.
- 4.18 Where the Faculty decides that a case should be referred for further investigation by the University, the Procedure for Investigations into Cases of Student Misconduct will be followed.

#### Stage 1: Faculty Consideration

##### ***Initial consideration of a concern***

- 4.19 Concerns raised about alleged breaches of professional standards or conduct will be considered by appropriate members of staff from within the subject area in which the student is studying, who may decide supportive action is appropriate or that the case should be referred to the Dean of Faculty (or nominee) or to the Student Casework Unit for instigation of Stage 2. See Procedure for Stage 1.

##### ***Consideration by the Dean of Faculty (or nominee)***

- 4.20 If the case has been referred for consideration by the Dean of Faculty (or nominee), the student will be called to a meeting within 5 working days of the referral.
- 4.21 The Dean of Faculty (or nominee) is able to issue sanctions as defined in the Non-Academic Misconduct Regulations, Section Two: Regulatory Principles, paragraphs 2.32 to 2.35.
- 4.22 The Dean of Faculty (or nominee) can refer the concern back to the subject team to consider precautionary action or request an investigation into the concerns raised if it is deemed necessary.
- 4.23 The outcome must be provided to the student in writing within five working days of the meeting.

- 4.24 If the student does not agree with the outcome and the sanction imposed by the Dean of Faculty, they are able to request that their case is referred to Stage 2 of the Fitness to Practise Procedure, and an Investigating Officer will be appointed.

#### Stage 2: Formal stage

- 4.25 Concerns of a serious nature can either be referred by the Faculty, reported directly to the Student Casework Unit using the relevant form or reported via the Report and Support system. Evidence must be provided to support any allegations, and this should be submitted in a timely manner.
- 4.26 Where a referral is made directly to the Student Casework Unit the Head of Student Casework (or nominee) will consider the nature and seriousness of the allegations and decide whether an investigation should take place or whether the matter should be referred back to the Dean of Faculty (or nominee).

#### Stage 3: Request for Review

- 4.27 The Responding Student has the right to request a review against any sanction that has been imposed at Stage 2 of the Procedure. See Procedure for Requests for Review.
- 4.28 It is the Responding Student's responsibility when requesting a review to demonstrate, on the balance of probabilities, that there is evidence to show that one or more of the grounds stated in the Procedure applies.

### **Investigations**

- 4.29 The Investigation process will be as outlined in the Procedure for Investigations into Cases of Student Misconduct.
- 4.30 The Investigating Officer will determine whether they need to interview any witnesses identified by either the Reporting Party or the Responding Student. In order to do so, they will have to disclose to the witness details of the case under consideration but will ask them to maintain confidentiality.
- 4.31 Following completion of the investigation, the Investigating Officer's report will be presented to the Dean of Faculty (or nominee). A decision will be taken as to whether there is a case to answer and, if so, whether the case should be referred to a Fitness to Practise Committee.

### **Fitness to Practise Committee Hearings**

#### Constitution of the Fitness to Practise Committee

- 4.32 The Fitness to Practise Committee is constituted as follows:
- one senior staff member at Head of Subject level or above, normally with experience of fitness to practise (Chair);
  - one member drawn from the academic staff of schools of the faculty which have fitness to practise requirements and have the required professional registration to meet professional body standards;
  - an external practitioner drawn from the relevant profession;

- the President of the Students' Union (or nominee)<sup>3</sup>.

A Secretary, who is not a member but will be present throughout the proceedings, will service the Committee. The Secretary will be the Head of Student Casework (or nominee).

The members of the Fitness to Practise Committee will have had no previous involvement with the case or association with the student. The Students' Union representative will not have previously supported the student during the case.

The student will be informed of the constitution of the Committee prior to the documentation being circulated and will be given the opportunity to raise any concerns in relation to membership, for example if they have grounds to consider that a member may be biased.

In circumstances where each member of the Committee has exercised their deliberative vote and there is a tie, the Chair will have the casting vote.

#### Functions of the Fitness to Practise Committee

4.33 The functions of the Fitness to Practise Committee are:

- a) To consider cases of students, who are enrolled on a course leading directly to a professional qualification or further annotation/registration that gives the right to practise a particular profession, which are referred on either of the following grounds:
  - any conduct which may call into question a student's fitness to be admitted to and practise that profession, including academic misconduct, or
  - any health problem, which may call into question a student's fitness to be admitted to or obtain further annotation/registration and practise that profession.
- b) To hear appeals from students who have been refused confirmation of their declaration of good character and/or good health or similar.
- c) To consider reports from Investigating Officers.
- d) To establish, as far as possible, the facts of the case.

#### Potential outcomes

4.34 Following consideration of the case, the Committee may:

- a) Decide there is no case to answer.
- b) Permit the student to continue with the course under close supervision and/or specified conditions.
- c) Issue a formal written warning. The formal written warning will be held on the student's file for a specified period and may be commented upon in any references provided.

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<sup>3</sup> The Students' Union representative will be independent and will have no prior knowledge of your case

- d) Issue a final written warning. The final written warning will be held on the student's file for a specified period and may be commented upon in any references provided.
- e) Suspend the studies of the student for a specified period.
- f) Require that the student's studies on a course leading to a professional qualification or further annotation/registration be terminated but the student is able to:
  - transfer their credit onto another course, subject to them having met any specified entry criteria and the course leader of the receiving course, in liaison with the faculty representative, having undertaken the appropriate mapping exercise. The student will be supported by the faculty in this process;
  - apply for admission as a new entrant through the normal procedures.

The student will not be able to transfer their credit onto certain courses, including those that lead to a professional qualification that is subject to the Fitness to Practise Regulations and Procedures. This also applies to courses leading to further annotation/registration. The decision of the Committee will be communicated to staff that require the information to make a decision on transfer/admission.

- g) Require that the student's studies on the course be terminated and that their enrolment as a student should cease. Where the Chair is not a member of Executive, this sanction will be ratified by the Vice Chancellor (or nominee).
- 4.35 If the decision of the Committee is to suspend or terminate the studies of an international student on a Tier 4 visa the Head of Compliance must be informed immediately as these sanctions are subject to Tier 4 visa regulations.
- 4.36 Where enrolment is allowed to continue on a course under specified conditions the faculty will monitor progress and report any failure to meet the conditions to the Secretary of the Committee and, in the case of international students on a Tier 4 visa, the Information Compliance Manager.
- 4.37 Sanctions, other than suspension and expulsion, should only be imposed after the request for review period has expired.
- 4.38 Any repeated occurrences of a similar offence, or failure to comply with a sanction imposed by the Fitness to Practise Committee, may result in a more severe sanction.
- 4.39 See also the Procedure for Investigations into Cases of Student Misconduct and the Procedure for Disciplinary/Fitness to Practise Committee Hearings.

#### **Informing professional bodies / local authorities / Disclosure and Barring Service (DBS)**

- 4.40 Certain professional bodies require the University to inform them as soon as an investigation is instigated under this Procedure and then to inform them of the outcome.

- 4.41 For all other professional bodies, once the University's Procedure has been completed the most senior registrant within the faculty will inform the relevant professional body/local authority of the outcome reached.
- 4.42 In certain circumstances professional bodies may also require that elements of, or the full case file, be provided to them.
- 4.43 The University is required to report serious concerns to the Disclosure and Barring Service (DBS). A referral to the DBS may take place at any point during the consideration of a case under this Procedure<sup>4</sup>.

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<sup>4</sup> The gov.uk site details our legal duty to refer: <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs#>

## Appendix 1

Course	Accrediting/Regulatory Body
Nursing courses leading to registration	Nursing and Midwifery Council (NMC)
Midwifery courses leading to registration	
MSc/BSc Specialist Community Public Health Nursing (all pathways)	
MSc/BSc Community Health Studies (all pathways)	
Return to Practice	
Prescribing V100 and V150	
Independent Prescribing	Nursing and Midwifery Council (NMC), Health and Care Professions Council (HCPC), General Pharmaceutical Council
Master of Chiropractic	General Chiropractic Council (GCC)
Social Work	Social Care Wales (CCW)
BSc (Hons) Psychology with Behaviour Analysis	Behavior Analyst Certification Board (BACB)
MSc Behaviour Analysis and Therapy	
PG Dip Behaviour Analysis Supervised Practice	
BSc Systemic Counselling	British Association for Counselling and Psychotherapy (BACP)
MSc Systemic Psychotherapy	The Association for Family Therapy and Systemic Practice (AFT)
PgD Systemic Practice in Psychotherapy	The Association for Family Therapy and Systemic Practice (AFT)
MA/PGDip Integrative Counselling and Psychotherapy	British Association for Counselling & Psychotherapy (BACP) Dip level
MSc/PGDip Cognitive Behavioural Psychotherapy	
MSc Play Therapy	British Association of Play Therapists (BAPT)
MA Art Psychotherapy	Health and Care Professions Council (HCPC)
MA Music Therapy	
Postgraduate Certificate Cognitive Behavioural Therapy Skills Postgraduate Certificate Integrative Counselling Skills	Entry requirement for MA Integrative Counselling and Psychotherapy and MSc Cognitive Behavioural Psychotherapy - British Association for Counselling and Psychotherapy
Teaching courses with QTS	Education Workforce Council (Wales)
UCert Further Professional Development for Returning and Supply Teachers	Education Workforce Council (Wales)

PcET Professional Certificate in Education and Training (PcET)	Education Workforce Council (Wales)
PcET Professional Graduate Certificate in Education and Training (PcET)	Education Workforce Council (Wales)
PcET Postgraduate Certificate in Education and Training (PcET)	Education Workforce Council (Wales)
BA (Hons) Youth and Community Work	Professional endorsement by Education and Training Standards Committee Wales
BA (Hons) Youth and Community Work (Youth Justice)	Professional endorsement by Education and Training Standards Committee Wales
MA/PgD Working for Children and Young People (Youth Work Initial Qualifying Youth)	Professional endorsement by Education and Training Standards Committee Wales
BA (Hons) Early Years Education and Practice	Social Care Wales
Professional Doctorate in Counselling Psychology (D Psych)	British Psychological Society (BPS) and Health and Social Care Professional Council (HCPC)
PG Diploma SEN/ALN (Specific Learning Difficulties)	British Dyslexia Association
BA Counselling and Therapeutic Practice	Seeking accreditation with British Association for Counselling & Psychotherapy (BACP)
Cert HE Counselling Studies	Route to admission to the BA Counselling and Therapeutic Practice, which is seeking accreditation with British Association for Counselling & Psychotherapy (BACP)
Foundation Degree Veterinary Nursing	Royal College of Veterinary Surgeons (RCVS)
BSc (Hons) Physiotherapy	Chartered Society of Physiotherapists (CSP) and Health & Care Professions Council (HCPC)
BSc (Hons) Operating Department Practice	College of Operating Department Practitioners (CODP) (endorsement) and Health & Care Professions Council (HCPC)
BSc (Hons) Occupational Therapy	Royal College of Occupational Therapists (RCOT) and Health & Care Professions Council (HCPC)
CertHE Health Care Support Worker	Route to admission to the first year of the nursing degree