

# Fitness to Practise Policy

## 1. Introduction

- 1.1 Any programme of study which has a practice component, which will lead to a professional registration will be governed by a requirement that students demonstrate their 'Fitness to Practise'. Such programmes depend upon the satisfactory completion of theory and practice assessment and course work, and standards of behaviour, health and professional conduct relevant to future employment in the associated profession.
- 1.2 Behaviour, health and /or professional conduct that adversely affect a student's Fitness to Practise, may result in their Professional, Regulatory and /or Statutory Body (PRSB) refusing to record the student's award and entitlement to practice. Faculties determine standards and criteria for students to ensure their fitness for practise. Standards of Education and Standards of Proficiency are published by PRSBs.
- 1.3 This policy identifies procedures to determine outcomes in situations where a student's Fitness to Practise is a cause for concern. The policy has been developed with regard to equal opportunities legislation which ensures that the rights of students are protected and judgments are free from prejudice on the basis of Race, Disability, Gender, Sexual Orientation, Religion and Belief or Age.
- 1.4 The purpose of this document is to outline the standards that need to be met for a student to demonstrate their 'Fitness to Practise', and the action that is to be taken should there be cause for concern.

## 2. Definition

- 2.1 A student's Fitness to Practise may be challenged when their behaviour, health and/or professional conduct gives cause for concern. In these circumstances, a student should be considered by Fitness to Practise procedures at School level. The University reserves the right to implement its [disciplinary procedures](#) simultaneously.
- 2.2 In accordance with University procedures for academic progression and professional conduct, professional body requirements, and School procedures the University must endeavour to ensure that the behaviour, health and professional conduct of students does not constitute a risk to themselves or others.

## 3. Duties of Students in Relation to Health

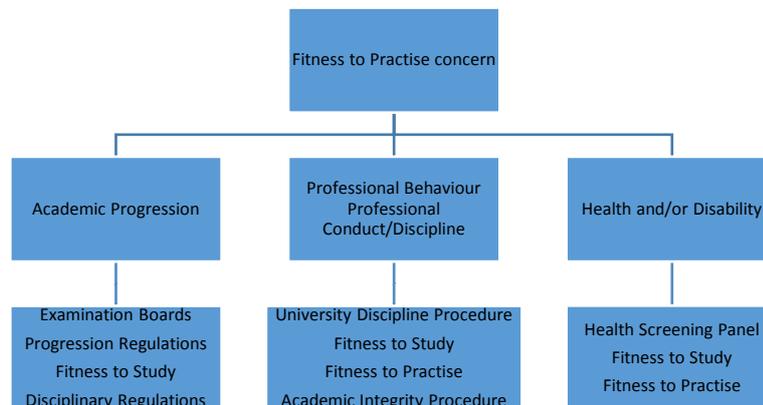
- 3.1 In order to demonstrate that they are fit to practise, students should:
- 3.2 be aware that their health problem(s) may put themselves or others at risk;
- 3.3 seek medical or occupational health advice, or both, if there is a concern about their health, including their mental health. Students must register with a GP so that they have access to independent and objective medical care;
- 3.4 accept that they may not be able to assess their own health accurately, and be willing to be referred for treatment and to engage in any recommended treatment programmes. Students must protect themselves and others by being immunised against common serious communicable diseases if vaccines are available and are recommended by the Department of Health or relevant devolved department;
- 3.5 not rely on their own or another student's assessment of the risk their health problem(s) poses to themselves or others and should seek advice from a healthcare professional;
- 3.6 be aware that when they graduate they are responsible for informing their employer or other appropriate person if their health poses a risk to themselves or others and to declare any health problem(s).

*For medical students only*

- 3.7 be aware that they are not required to perform exposure prone procedures (EPPs) in order to achieve the expectations set out in [Tomorrow's Doctors](#); students with blood-borne viruses (BBVs) can study medicine but they should not perform EPPs; they may have restrictions on their clinical placements; they must complete the recommended health screening before undertaking EPPs; and they must declare their health condition so that their practice is adjusted in light of the declaration made when they graduate.

## 4. Raising/Reporting Fitness to Practise Concerns

- 4.1 Anyone concerned about the behaviour, health and/or professional conduct of a student has the right to raise their concern. Usually the concern will be taken to the Programme Lead or relevant academic staff member. Faculties will determine the management in accordance with Fitness to Practise procedure.
- 4.2 It is important to investigate all concerns as soon as they arise and to keep clear and accurate records.
- 4.3 Concerns should be reported, in writing, in the first instance to the relevant academic/personal tutor, relevant Head of Department/Director of Programmes, Curriculum and Quality Assurance team or directly to the Head of School.
- 4.4 It is anticipated that external complaints will be routed through the usual placement complaints procedures and the School will be formally notified within 48 hours to enable investigation to commence.
- 4.5 Depending on the nature of the concern, action will be taken using one or more of the three procedures below in accordance with the flow chart in Section 14:



## 5. Emergency Suspension

- 5.1 The decision to withdraw a student from practice or programme should be determined on a case by case basis, and a risk assessment. This should be a proportionate response to the possible risk to themselves or others. If the student remains in practice whilst awaiting the outcome of an investigation, conditions of practice may be imposed.
- 5.2 If the identified concern potentially constitutes serious professional misconduct, the student may be suspended from the **programme** by the Deputy Head of School (Education) without prejudice and pending further investigation and initiation of the 'Fitness to Practise' procedure.
- 5.3 When a student is withdrawn from practice/programme this will be confirmed to him/her in writing normally within 5 working days. In the case of the former, the Programme Lead will notify the student of the concerns. In the case of the latter, the Deputy Head of School (Education) will notify the student of the concerns. The letter will include notification of the allegations against the student/concerns about the student's practice and an outline of the procedures that will be followed by the School.

- 5.4 Whenever the student is withdrawn from practice, the School is required to inform the practice supervisor/educator. The student and the practice supervisors/educator will be advised of this in person or by telephone at the earliest opportunity.

## 6. Retention of data

- 6.1 All records related to the process, the meeting and any ruling of the Panel will be held on the student's file for a period of 10 years in line with the [Quality Handbook](#) and legal advice.

## 7. Timescales

- 7.1 The time between initial reporting of the Fitness for Practise concern and the student receiving written details of the outcome will normally be no longer than 30 working days

## 8. Sharing of outcome

### Data Protection Issues

- 8.1 All University staff members are governed by the requirements of the Data Protection Acts 1984 and 1998. Under these acts, all data relating to a person's physical or mental health is regarded as sensitive personal data. The [University's Data Protection Policy](#) contains guidance on the use of sensitive personal data and should be followed in any Fitness to Practise procedures.

### Confidentiality

- 8.2 In all cases where, in the member of staff's judgment, it would be in the student's best interests to disclose sensitive information (e.g. so that appropriate support may be provided) the student's informed consent should be obtained where possible. It will be necessary to inform the student why there might be a need to disclose sensitive information, who will have access to this information and the likely consequences of giving or withholding consent (e.g. additional support strategies such as reasonable adjustments including additional examination arrangements). Once consent has been obtained, it is the responsibility of the person passing on the information to ensure compliance with terms agreed with the student.
- 8.3 If the student chooses to withhold consent, this decision should be respected. In this scenario, the implications of non-disclosure in terms of additional support should be made clear. However, there are occasions when the student's consent is withheld, or it is impracticable to try to obtain it, when confidentiality may be broken, these include;
- When the student's mental health has deteriorated to the extent of compromising his/her personal safety
  - When the student is at risk of serious abuse or exploitation
  - When the student's behaviour is likely to adversely affect the rights and safety of others
  - Where the member of staff would be liable to civil or criminal procedure if the information were not disclosed

### Patient Safety

- 8.4 Information will be shared with others in circumstances where there may be a risk to others if information were withheld. Unless a case has been dismissed, referral to [Fitness to Practise procedures](#) will be made in all exiting student references.

## 9. Staff Development

- 9.1 Members of the Fitness to Practise Panel should receive training in their role to ensure competency.

## 10. Monitoring and Review

- 10.1 Fitness to Practise cases will be monitored in each School by the School Programmes Committee.
- 10.2 Where there is an opportunity for the enhancement of care delivery, anonymised feedback will be given to the department, academic unit or external agency concerned.

## 11. Associated Documentation

Appendix 1	A guide to the <a href="#">areas of concern</a> that may lead to a Fitness to Practise panel
Appendix 2	A guide to <a href="#">determining the severity</a> of a potential Fitness to Practise issue
Appendix 3	Guidance for <a href="#">students with a disability</a>
Appendix 4	Guidance for <a href="#">those who are interviewing</a> staff, complainants or others

## 12. References and External Documents

12.1 This policy has been developed with reference to the following key documents:

Equality Act 2010, HMSO, London

University of Southampton, Regulations governing Reviews and Appeals by students on taught programmes. <http://www.calendar.soton.ac.uk/sectionIV/student-appeals.html>

Health Professions Council: standards of conduct, performance and ethics 2008. London SE11 4BU, [www.hpc-uk.org](http://www.hpc-uk.org)

Nursing and Midwifery Council 2008, Good health and good character guidance. November 2010, NMC, London <http://www.nmc-uk.org/Documents/Guidance/nmcGood-HealthAndGoodCharacterGuidanceForApprovedEducationInstitutions.PDF>

General Medical Council, Concerns about Doctors, Fitness to Practice Panels (accessed March 2011) [http://www.gmc-uk.org/concerns/hearings\\_and\\_decisions/fitness\\_to\\_practise\\_panels.asp](http://www.gmc-uk.org/concerns/hearings_and_decisions/fitness_to_practise_panels.asp)

Medical Student: professional values and fitness to practise document (2009) produced by the General Medical Council and the Medical Schools Council. [http://www.gmc-uk.org/education/undergraduate/professional\\_behaviour.asp](http://www.gmc-uk.org/education/undergraduate/professional_behaviour.asp)

General Social Care Council, Codes of Practice for Social Care Workers, (2010). <http://www.scie.org.uk/workforce/files/CodesofPracticeforSocialCareWorkers.pdf>

Fitness to Teach [www.education.gov.uk](http://www.education.gov.uk)

Code of Conduct and Practice for Registered Teachers (accessed November 2011) <http://www.gtce.org.uk/teachers/thecode/>

National College for Teaching and Leadership (disciplinary). <https://www.gov.uk/government/organisations/national-college-for-teaching-and-leadership>

Office of the Independent Adjudicator <http://www.oiahe.org.uk>

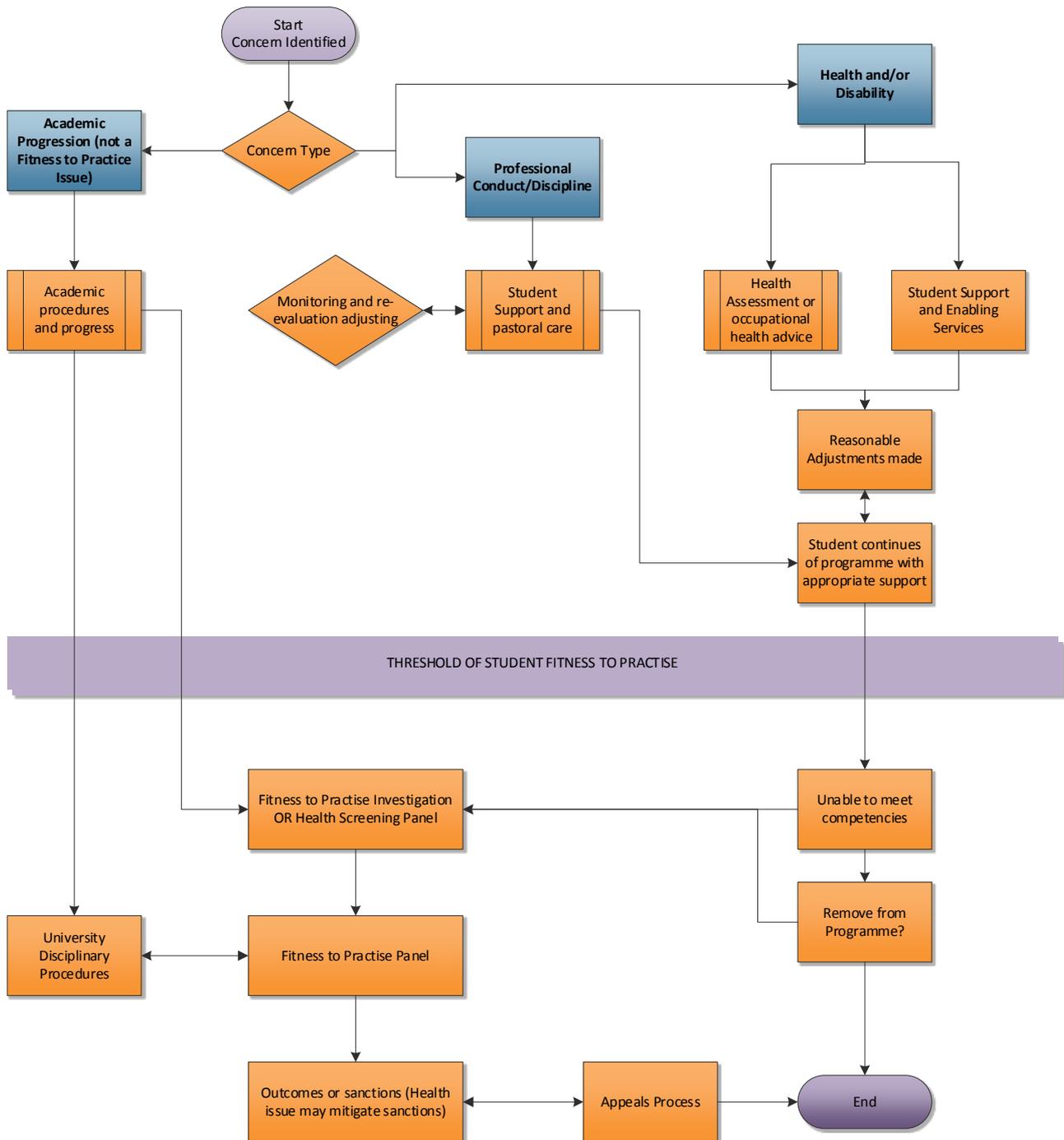
## 13. Glossary

Others	Any person with whom the student has contact, internal or external to the University and in Public.
--------	---

Document Information	
Author	Cross-faculty Fitness to Practise Working Group 2011-12
Owner (committee)	Senate
Approved Date	June 2012, January 2015 (updating of links)
Last Revision	August 2018
Type of Document	Policy

## 14. FITNESS TO PRACTISE FLOW DIAGRAM

### 14.1 Overarching Principles: Parity and practice, Transparency and Fairness



# Fitness to Practise Procedure

Any student subject to Fitness to Practise procedures should be advised to make contact with the Student Advice Centre <http://www.susu.org/advice-centre> as soon as possible, so that they can receive independent, confidential advice and arrange for representation.

## 1. Academic Issues (including progression)

- 1.1 Student progress from one year to the next will depend upon the successful completion of all pre-determined module and practice learning outcomes.
- 1.2 The requirements for academic progression are outlined in the regulations for all pre-registration and undergraduate awards which can be found on the University calendar at:
  - <http://www.calendar.soton.ac.uk/sectionIV/credit-bearing-progs.html>
  - <http://www.calendar.soton.ac.uk/sectionIV/progression-regs.html>
  - <http://www.calendar.soton.ac.uk/sectionIV/progression-regs-standalonemasters.html>
- 1.3 The regulations for higher degrees can be found at:
  - <http://www.calendar.soton.ac.uk/sectionV/sectV-index.html>
- 1.4 Any student breaching regulations related to disciplinary procedures may be reviewed under the 'Fitness to Practise' policy to determine if there are implications for their continuation on their programme. This includes any student who breaks the law. Students found guilty of violent behaviour, drug dealing or who engage in repeated episodes of intoxication will automatically be referred to a Fitness to Practise panel.

## 2. Health Related Issues

- 2.1 The majority of students who become ill during their programme of study regain their health with support from their GP or health care provider. This may entail a period of suspension from study, and such situations will be dealt with under the Fitness to Study policy and then the Return to Study procedure (<http://www.calendar.soton.ac.uk/sectionIV/fitness-study.html>). Several Faculties have health procedures designed to protect service users and the public including other students whilst, at the same time, helping the student access the most appropriate care and supervision. In some instances the Fitness to Practise Policy is used to reduce the potential of risk to others.
- 2.2 Students are required to take responsibility for their own health. Students applying for programmes leading to a regulated profession must declare health problems which could pose a risk to themselves or others on application. Health problems that could pose a risk to themselves or others and which arise after the commencement of the programme must be declared and managed. Students may not rely on their own risk assessment but must be guided by the advice of a relevant healthcare professional who will, assess and make recommendations to School regarding the student's Fitness to Practise, and required reasonable adjustments, whilst maintaining medical confidentiality.
- 2.3 The University initiates Fitness for Practise procedures if a student has been identified as having a health problem that has affected or has the potential to affect their performance or when a student wishes to return from a period of suspension from a programme following a period of ill health. Where the suspension to studies was dealt with under the University's Fitness to Study policy <http://www.calendar.soton.ac.uk/sectionIV/fitness-study.html> for students causing significant concern and/or presenting risk, the Fitness to Study policy should be followed in conjunction with this policy where Fitness to Practise concerns arise.

### **3. Investigating Concerns Relating to Students' Fitness to Practise**

- 3.1 If the identified concern is regarded as potentially constituting serious professional misconduct, the student may be suspended from the programme by the Head of School without prejudice and pending further investigation and initiation of the 'Fitness to Practise' procedure. The student will be informed about the suspension and reasons behind it in writing normally within 5 working days and will receive a copy of the Fitness to Practise policy and procedure.
- 3.2 If the identified problem could be regarded as potentially constituting a risk to others, the student may be suspended from practice without prejudice and pending further investigation. The student will be informed about the suspension and reasons for it; in writing; normally within 5 working days. They will also receive a copy of the Fitness to Practise policy and procedure.
- 3.3 Whenever there is significant concern about a student's wellbeing or there is a perceived risk to self or others regarding Fitness to Practise the student should be referred to First Support, Student Services for immediate emotional support and intervention.

#### **Gathering Evidence**

- 3.4 Where a student is required to make a statement, this should be undertaken with support from an appropriate professional. Students will be encouraged to approach the Students' Union Advice Centre for advice and guidance on the Fitness to Practise procedure.
- 3.5 When a concern about a student's behaviour, health and/or professional conduct is raised, this will normally be discussed by a named Senior Academic and the students academic/pastoral Tutor (or nominated alternative) to assess what information has been received and, if appropriate, the concern will be passed to 'an investigator', who will be appointed by the Head of School.

#### **Critical Incident Investigator**

- 3.6 The investigator will be a suitably experienced member of staff in the School staff who will not be, nor has ever been, the student's academic/personal tutor. The role of the investigator is to gather further evidence on the concern for consideration by the Critical Incident Panel.
- 3.7 The investigator should keep a record of the investigation for presentation to the Fitness to Practise panel. They should consider the evidence based on the balance of probability that the student's Fitness to Practise is impaired.
- 3.8 If the Investigator decides the concern regarding the behaviour, health and/or professional conduct is sufficiently serious and calls into question the student's ability to continue on the programme, or their Fitness to Practise after graduation, the case should be referred directly to a Fitness to Practise Panel without the need for a Critical Incident Panel..
- 3.9 The investigator should also consider the advice on sanctions in this guidance.
- 3.10 Should the Critical Incident Panel consider the case further, it is likely that the investigator will be required to present the report and be prepared to answer questions put by the School. Having taken on the role of investigator and potentially case presenter, the investigator should not be invited to be a member of a decision making committee (including a Fitness to Practise Panel) concerning the case.

### **4. Critical Incident Panel**

- 4.1 If the Investigator has concerns about the student's Fitness to Practise, the Investigator will provide a report to an independent Director of Programmes who will decide on whether the criteria has been met to constitute a Critical Incident Panel.

## Outcomes

- 4.2 The Critical Incident Panel will include discussion and assessment of the available evidence on individual matters of student misconduct and behavioural patterns that are of concern with regard to 'Fitness to Practise'. They will recommend one of several outcomes.
- a) The **matter is not sufficiently serious** to warrant any specific action.
  - b) The matter is **of concern but it is deemed to be reversible with additional training** (eg communication skills or racial equality training). If this course of action is taken, the student will be informed that they will remain under regular review by the academic/personal tutor until there is clear evidence that the problem has been resolved.
  - c) The **matter is of serious concern**. This is referred to the 'Fitness to Practise' panel.
- 4.3 Once the **Critical Incident Panel** has made a decision it will be communicated to the student, their academic/personal tutor normally within 5 working days.
- 4.4 Where a report has been produced, and /or notes taken at meetings during any investigation, the student must receive a copy normally within 5 working days. The student will be required to review the report at this stage.

## 5. Critical Incident Panel

### 5.1 Constitution

Three academic members of staff to include:

- Programme Lead
- Academic/personal tutor
- 2 other academic staff as nominated by a Director of Programmes

## 6. Fitness to Practise Panel

### 6.1 Constitution

- Deputy Head of School (Education) (Chair)
- Deputy Head of School (Education) (or other senior nominee) from another School with Fitness to Practise policy.
- Professional practitioner from practice - (or other senior nominee).
- A representative or a report from Occupational Health (if appropriate);
- Academic representative from same field of practise
- Expert advisors as appropriate to the issue eg Student Support Services, MIND, Disability Rights Commission

### 6.2 Additional visitor (not involved with the decision making of the panel)

- A further senior member of School staff may attend to observe, this is undertaken in the spirit of staff development and training. It must be ensured that there is no conflict of interest when inviting observers. The student will be advised and have the opportunity to refuse if an observer is to be present during the panel proceedings.

## Panel Responsibilities

- 6.3 The role of the 'Fitness to Practise' panel is to consider whether a student's behaviour, health and/or professional conduct raises a serious or persistent cause for concern regarding their ability to continue on their programme or practise after graduation. The Panel will balance public safety with the interests of the student, and the need to maintain trust in the particular profession.
- 6.4 The Panel will review the accumulated evidence related to the case and will consider this in the context of any pattern of behaviour, health and/or professional conduct problems over the duration of the undergraduate or postgraduate programme together with any earlier history of relevant problems. The 'Fitness to Practise' panel will normally interview the student.
- 6.5 Prior to the 'Fitness to Practise' panel, the student will be informed of the basis for concern, and all relevant documentation, including the notes of the preliminary discussions (referred to) will be sent to the student and the Fitness to Practise panel normally no less than 5 working days before the date of the Fitness to Practise panel meeting.

## Student Responsibilities

- 6.6 Students are strongly encouraged to attend the meeting of the 'Fitness to Practise' panel where their case is being heard. This is to allow the Panel to raise questions with the student and for the student to represent him/herself. If a student does not attend the Panel meeting, the meeting can continue without the student.
- 6.7 Students are advised to contact the Students' Union Advice Centre for appropriate advice and representation on the Fitness to Practice policy and procedure. Appropriate documentation will be circulated to the Panel and will also be copied to the student normally 5 working days before the date of the Fitness to Practice Panel meeting. Both the student and the SU advisor will have access to all panel documentation.
- 6.8 It is important that the student is made aware that he or she can be accompanied by a third party. This may be someone from the Students' Union, a relative, a friend, a lawyer, or a professional representative e.g. from a medical, dental or pharmaceutical defence organisation or a trade union - including the British Medical Association or the Royal College of Nursing or another student. The 'friend' or advocate will not be a member of the Panel.

## Evidence

- 6.9 The Panel will review the accumulated evidence related to the case in the context of any behavioural patterns or problems during the student's programme as a whole as well as any earlier history of relevant problems. The Panel will consider the evidence on the balance of probabilities that the student's judgment is impaired using the civil standard of proof. Due regard will be given to the sanctions that can be imposed by the Panel.
- 6.10 The evidence will be provided by:
- the School critical incident panel meeting that considered the issue, including the report and evidence provided to them by the investigator
  - the student - the student is free to supply testimonials on their behalf, and should be encouraged to provide any documentation that could help explain their actions.
  - expert advisors if called - where it is necessary to obtain further information, for example from the student's general practitioner or health specialist, the student's written consent must be received
- 6.11 It is the responsibility of the presenter to ensure evidence has been provided to substantiate the report being presented, at least two weeks in advance of the Fitness to Practise meeting.
- 6.12 It is the responsibility of the Chair to ensure evidence has been provided to substantiate the report being presented, in advance of the Fitness to Practise meeting.

- 6.13 Mitigating factors will be considered by the panel when deciding on the outcome and only when a student's Fitness to Practise has been judged to be impaired.
- 6.14 Normally proceedings of the Panel will remain confidential with the exception of its decision. The decision of the Panel will be communicated in writing to all parties normally within 5 working days (the Report from the Fitness to Practise Panel meeting will be distributed to all parties normally within 5 working days)

## Outcomes

- 6.15 Having considered the evidence, the Panel will recommend either:
- a) the student receives no warning or sanction; a copy of the panel report and decision are located in the student's file.
  - b) the student receives a warning as there is evidence of misconduct but the student's Fitness to Practise is not impaired; The purpose of a warning is to give a formal indication to a student that their conduct has departed from the standards expected of students on professional programmes and if repeated sanctions will be imposed .
  - c) the student receives a sanction as their Fitness to Practise is judged to be impaired. The sanctions are as follows:
    - c1) **conditions are imposed.** The purpose of a sanction is not to punish the student but to protect them and others. Conditions / undertakings will only be applied if the Panel agrees that the student has shown insight into their problem(s) and should respond positively to the sanction imposed..
    - c2) **suspension from the programme** Suspension prevents a student from continuing with their registration on the programme for a set period and from graduating at the expected time. When a student is suspended, then conditions will also be set for their return to the programme.
    - c3) **termination of the student's place on the programme.** Termination of a student's studies will occur when the Panel believes that this is the only way to protect them and others. Termination of studies (ie expulsion) is applied if the student's behaviour, health and professional conduct is considered to be incompatible with their continuation on the programme.
- 6.16 The Panel will ensure that the warnings or sanctions imposed are appropriate, proportionate, workable and measurable.
- 6.17 At the discretion of the Panel, proceedings may be adjourned for a period not exceeding 20 working days in the first instance, and its findings or decision deferred accordingly. This will be clearly communicated to the student.
- 6.18 If a concern is upheld, the student will not be permitted to register on other professional programmes within the University of Southampton and may be unable to register on similar programmes elsewhere. In addition, the relevant PSRB will be informed.
- 6.19 The purpose of the outcomes is to protect the student and others. The Panel will work through the different outcomes from the least to the most severe (as set out above). The Panel will only consider a harsher outcome if they are satisfied that the less harsh warning or sanction is not sufficiently strong to protect the public.
- 6.20 In making the decision on whether a warning or a sanction should be made, the Panel will ensure that it is proportionate to the concern and that it is likely to effectively address the concern that has been raised.
- 6.21 If the Panel makes a decision to impose a sanction, they will give the reasons for this sanction being imposed and specify the timeframe for it to be met. The Panel will also set out any conditions that apply.

- 6.22 A student who receives a sanction or a warning (short of expulsion from the programme) will be supervised or monitored in a manner that is appropriate to the sanction / warning given.
- 6.23 The recommendation of the relevant Panel, and any findings of fact, will be conveyed to the student and other parties normally within 5 working days, and will in any event be conveyed to the student in writing.
- 6.24 The outcome from the Panel will be set out in writing and will include:
- the outcomes of the case
  - the reasons for the decisions being made
  - any warning or sanction that has been given and its purpose
  - any mitigating circumstances that have been taken into consideration when determining the warning or sanction
  - the expected duration of the warning or sanction
  - whether or when their Fitness to Practise will be considered again in a formal hearing
  - whether the outcome must be declared to a professional/regulatory body at the point of registration and/or to other organisations such as employers or postgraduate deaneries
  - how long the sanctions or warning will remain on the student's record.
- 6.25 After the 'Fitness to Practise' panel, a decision will be reached, and this will be communicated in writing to the student normally within 5 working days. The decision letter will provide full reasons for the decision and details of the appeal process will be provided.
- 6.26 Where a student has attended, they will have the opportunity to approve the notes, and confirm that they are correct record of what was said. A hard copy signature confirming this should be obtained, and attached to the record of the interview. A signature of the note taker is helpful and provides further confirmation of the process that was followed.

## 7. Appeals procedure

- 7.1 Students whose programme has been terminated, or who want to appeal against the decision of the Fitness to Practise Panel, should write to the Faculty Academic Registrar according to the University's [Regulations Governing Academic Appeals by Students](#). Students are encouraged to seek support and guidance from the Students' Union Advice Centre

## 8. Confidentiality

### Data Protection Issues

- 8.1 All University staff are governed by the requirements of the Data Protection Acts 1984 and 1998. Under these acts, all data relating to a person's physical or mental health is regarded as sensitive personal data. The University's Data Protection Policy contains guidance on the use of sensitive personal data and should be followed in any Fitness to Practise procedures.

### Confidentiality

- 8.2 In all cases where, in the member of staff's judgment, it would be in the student's best interests to disclose sensitive information (e.g. so that appropriate support may be provided) the student's informed consent should be obtained where possible. It will be necessary to inform the student why there might be a need to disclose sensitive information, who will have access to this information and the likely consequences of giving or withholding consent (e.g. additional support strategies such as reasonable adjustments including additional examination arrangements). Once consent has been obtained, it is the responsibility of the person passing on the information to ensure it is done on terms agreed with the student.

8.3 If the student chooses not to provide their consent this decision should be respected. In this scenario, the implications of non-disclosure in terms of additional support should be made clear. However, there are occasions when the student's consent is withheld, or it is impracticable to try to obtain it, when confidentiality may be broken, these include;

- When the student's mental health has deteriorated to the extent of threatening his/her personal safety
- When the student is at risk of serious abuse or exploitation
- When the student's behaviour, health and professional conduct is or is likely to adversely affect the rights and safety of others
- Where the member of staff would be liable to civil or criminal procedure if the information were not disclosed

## 9. Patient Safety

9.1 Information will be shared with others in circumstances where there may be a risk to others if information were withheld, unless the case is dismissed. Referral to Fitness to Practise procedures will be made in all exiting student references.

## 10. Enhancement

10.1 Where there is an opportunity for the enhancement of care delivery, anonymised feedback will be given to the organisation concerned and relevant stakeholders.

10.2 A report of the outcome will be made to the relevant Head of Academic Unit and Director of programme.

## 11. Staff Development

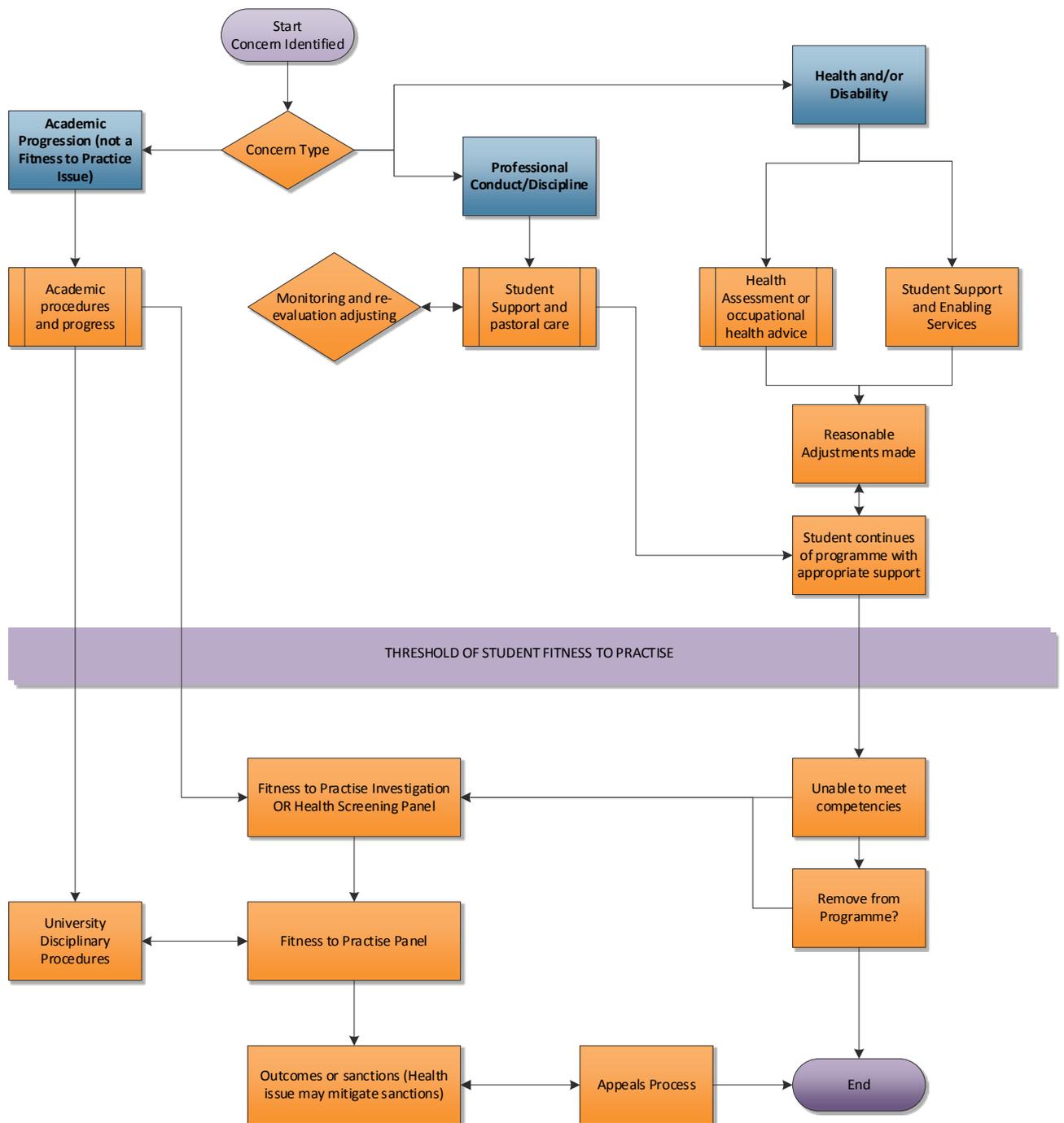
11.1 The competence of the panel, and the related training, includes:

- knowledge and application of the School's Fitness to Practise policy and related rules and regulations
- knowledge of and ability to apply the requirements set down in the Fitness to Practise policy, PSRB requirements and other related guidance
- familiarity with PRSB Fitness to Practise procedures
- fair-mindedness and a non- prejudicial approach
- knowledge of when and how to seek appropriate expert advice.
- knowledge and application of legal requirements and good practise related to equality and diversity.
- knowledge of OIA decisions to enhance Fitness to Practise complaints.
- Anonymised case studies will be used in external and University learning (completed/spent cases only, please see terms)

Document Information	
Author	Cross-faculty Fitness to Practise Working Group 2011-12
Owner (committee)	Senate
Approved Date	June 2012
Last Revision	January 2015 - links checked and updated.
Type of Document	Policy

## 12. FITNESS TO PRACTISE FLOW DIAGRAM

### 12.1 Overarching Principles: Parity and practice, Transparency and Fairness



## 1. Areas of Concern

### 1.1 Most frequent areas of concern relating to student fitness to practise – professional conduct and professionalism

<b>Criminal conviction or caution</b>	Child pornography Theft Financial fraud Possession of illegal substances Child abuse or any other abuse Physical violence Fixed Penalty Notices
<b>Drug or alcohol misuse</b>	Drunk driving Alcohol consumption that affects clinical work or the work environment Dealing, possessing or misusing drugs even if there are no legal proceedings
<b>Aggressive, violent or threatening behaviour</b>	Assault Physical violence Bullying Abuse
<b>Persistent inappropriate attitude or behaviour</b>	Uncommitted to work Neglect of administrative tasks Poor communication skills Failure to accept and follow educational advice Inappropriate or unprofessional behaviour to patients, their relatives, members of staff or fellow students. Major problems with attendance, punctuality, organisational skills or dishonesty, particularly as these relate to responsibilities in patient care. Demonstration of inappropriate attitudes, or demonstration of bias, for example, on the grounds of either race, religion, gender, sexuality, disability or social background, particularly, but not exclusively, in the context of patient care. Major problems with effective communication in a clinical context, particularly with patients and their relatives, but also with other health care professionals.
<b>Cheating or plagiarising</b>	Cheating in examinations, logbooks or portfolios Passing off others' work as one's own Forging a supervisor's name on assessments
<b>Dishonesty or fraud, including dishonesty outside the professional role</b>	Falsifying research Financial fraud Fraudulent CVs or other documents Misrepresentation of qualifications University regulations relating to discipline ( <a href="http://www.calendar.soton.ac.uk/sectionIV/discipline.html">http://www.calendar.soton.ac.uk/sectionIV/discipline.html</a> ).
<b>Unprofessional behaviour of confidentiality or attitudes</b>	Breach of confidentiality Misleading patients about their care or treatment Culpable involvement in a failure to obtain proper consent from a patient Sexual, racial or other forms of harassment Inappropriate examinations or failure to keep appropriate boundaries in behaviour Persistent rudeness to patients, colleagues or others Unlawful discrimination Lack of ability to work towards and demonstrate the Standards of the Profession Lack of demonstration of and ability to keep knowledge and skills up-to-date Lack of appreciation of personal limits of knowledge, skills, and experience Lack of effective supervision of tasks devolved to others
<b>Health concerns and insight or management of these concerns</b>	Failure to seek medical treatment or other support Refusal to follow medical advice or care plans, including monitoring and reviews, in relation to maintaining fitness to practise Failure to recognise limits and abilities or lack of insight into health concerns Treatment-resistant condition.

- 1.2 Most frequent areas of concern relating to student fitness to practise – academic progression
- 1.3 Concern regarding academic progression may be indicated by any of the following indicative behaviours:

<b>Academic progression</b>	Failure to meet academic standards
	Failure to meet practice standards
	Poor health that impacts on capacity to engage fully in learning opportunities despite reasonable adjustment (see also Fitness to Study policy: <a href="http://www.calendar.soton.ac.uk/sectionIV/fitness-study.html">http://www.calendar.soton.ac.uk/sectionIV/fitness-study.html</a> )
	Non- adherence to Disciplinary Regulations including academic integrity. For Disciplinary Regulations, see: <a href="http://www.calendar.soton.ac.uk/sectionIV/discipline.html">http://www.calendar.soton.ac.uk/sectionIV/discipline.html</a> ) For Academic Integrity regulations, see: <a href="http://www.calendar.soton.ac.uk/sectionIV/academic-integrity-regs.html">http://www.calendar.soton.ac.uk/sectionIV/academic-integrity-regs.html</a>

- 1.4 Most frequent areas of concern relating to student fitness to practise – health
- 1.5 Concern regarding health may be indicated by any of the following indicative behaviours.

<b>Health concerns and insight or management of these concerns</b>	Failure to seek medical treatment or other support Refusal to follow medical advice or care plans, including monitoring and reviews, in relation to maintaining fitness to practise Failure to recognise limits and abilities or lack of insight into health concerns Treatment-resistant condition.
	Ongoing poor health which limits engagement with learning opportunities
	Ongoing poor health which limits capacity to respond to feedback
	Ongoing poor health which limits retention of information and ability to respond in an appropriate and timely fashion.
	Ongoing poor health where reasonable adjustments threaten acquisition or demonstration of, Standards of the Profession (i.e., ability to satisfactorily complete placements, ability to work in teams, ability to communicate effectively, ability to reflect on practise and learning).

## 1. Determining Severity

1.1 Consideration will be given to the following types of questions:

<b>Has a student's behaviour harmed others or put others at risk of harm?</b>	Harm or risk of harm may be demonstrated by an incident or a persistent series of incidents that cause concern to personal tutors and academic or clinical supervisors. A series of incidents could indicate persistent failings that are not being, or cannot be, safely managed through pastoral care or student support. Or it may be that care and support have been tried and have failed.
<b>Has a student shown a deliberate or reckless disregard of professional and clinical responsibilities towards others or colleagues?</b>	An isolated lapse from high standards of conduct - such as a rude outburst - would not in itself suggest that the student's fitness to practise is in question. But the sort of persistent misconduct, whether criminal or not, that indicates a lack of integrity on the part of the student, an unwillingness to behave ethically or responsibly, or a serious lack of insight into obvious professional concerns, would bring a student's fitness to practise into question.
<b>Is a student's health or impairment compromising others safety?</b>	<p>A fitness to practise procedure does not need to be initiated solely because a student is ill, even if the illness is serious. However, a student's fitness to practise is brought into question if it appears that they have a serious medical condition and they do not appear to be following appropriate medical advice as necessary in order to minimise the risk to others and colleagues.</p> <p>A student's insight into the implications of any health conditions is important. Where there is non-compliance with support or treatment, and this behaviour indicates a lack of insight about the impact or potential impact of their condition on their fitness to practise once qualified and ultimately patient safety, this is likely to be a more serious concern. The key factor therefore, is the insight about the health condition, not the condition itself.</p> <p>Although unlikely given reasonable adjustments, an impairment or health condition may make it impossible for a student to meet the outcomes set by the PSRB at the point of graduation. In these rare cases, it may be appropriate to consider the student through formal fitness to practise procedures.</p>
<b>Has a student abused a client's trust or violated a client's autonomy or other fundamental rights?</b>	Conduct that shows that a student has acted without regard for a client's rights or feelings, or abused their professional position as a student, will usually give rise to questions about fitness to practise.
<b>Has a student behaved dishonestly, fraudulently, or in a way designed to mislead or harm others?</b>	The Faculty should take action if a student's behaviour is such that trust in the profession might be undermined. This might include plagiarism, cheating, dishonesty in reports and logbooks, forging the signature of a supervisor, or failing to comply with the regulations of the Faculty, University, hospital or other organisation.

1.2 Honesty and insight are important factors when considering convictions and cautions, including more minor infractions prior to admission. Where a student voluntarily declares an issue this was felt to show some insight and would normally act in the student's favour.

1.3 This table has been adapted from the Medical Student: professional values and fitness to practise document (2009) produced by the General Medical Council and the Medical Schools Council. [http://www.gmc-uk.org/education/undergraduate/professional\\_behaviour.asp](http://www.gmc-uk.org/education/undergraduate/professional_behaviour.asp)

## **1. Guidance for students with a Disability**

- 1.1 Where a disability is disclosed, the University has an obligation to make necessary arrangements in order to provide reasonable adjustment to enable learning where possible. However, the University can only make reasonable adjustments to learning, teaching and assessment arrangements for example where it knows about any specific health condition and its effects upon any particular student.
- 1.2 Wherever possible, student difficulties should be managed within the Programme. It is expected that a student should have the capacity to (i) assess their own 'fitness to practise', (ii) review their own 'fitness to practise', and (iii) seek appropriate advice and explore reasonable adjustments should anything affect their 'fitness to practise'. The university has an obligation then to respond to such concerns and put in place reasonable adjustment arrangements but it can only respond to concerns that it knows about.
- 1.3 If this first response is insufficient, and a student remains unable to manage their 'fitness to practise' despite reasonable adjustment, then a 'Fitness to Practise' panel hearing would be required. Concerns may be raised with the Director of Programmes. This may be done both by academic staff, field tutors, workplace contracts, fellow students, or External Examiners. If these concerns are deemed to be of sufficient severity, the student would be removed from training pending investigation through the Fitness to Practise proceedings.

## 1. Guidance for those who are interviewing staff, complainants or others

- 1.1 Interviewing staff (academic, administrative, clerical, clinical, technicians or any other) and complainants is an important part of a fitness to practise investigation.
- 1.2 The investigator or interviewee may or may not wish to have in attendance a third party (such as another member of academic staff). Any third party must have no involvement in the case and cannot be a possible witness. Third parties should not answer questions on behalf of the interviewee.
- 1.3 It is helpful for the interviewer to prepare a list of questions in advance. Questions should usually be open and not leading. A question should not suggest any particular answer and should not convey the interviewer's own opinions.
- 1.4 It is important that a record of the meeting is made, and experienced investigators may be able to do this themselves. Alternatively they may have present someone capable of preparing a detailed note of what has been said, to include both the questions asked and the answers given. Another option is to make an audio recording of the interview, which can then be transcribed and sent to the interviewee for approval and signature.
- 1.5 The note of what has been said should be sent to the interviewee for his/her approval that this is a correct record of what was said. A hard copy signature confirming this should be obtained, and attached to the record of the interview. A signature of the note taker is helpful and provides further confirmation of the process that was followed.
- 1.6 Interviews should be conducted in person, wherever possible. But there will be a few occasions, such as when a member of staff has left their post and lives/works in another area, when the only practical method is to conduct the interview by telephone. In this situation one could operate some kind of conference call arrangement to enable a note taker to record the interview.
- 1.7 The investigator should explain that he/she has been instructed by the Faculty to conduct a fitness to practise investigation because concerns have been raised. The interviewee must be made aware that a note will be taken, that he/she will be given a copy of the notes for checking and that a copy of the confirmed notes will be made available to the student concerned and to those considering the case if it is referred to a fitness to practise committee. It is suggested that in addition the interviewee is reminded of not only the need to maintain confidentiality in respect of the matter but also not to discuss his/her evidence with others who may also be witnesses. There may be obvious exceptions (where such dialogue is part and parcel of the interviewee's professional educational duties) but generally confidentiality within the process is an important ingredient.
- 1.8 Interviewees cannot, other than in very exceptional circumstances, remain anonymous. An integral feature of fairness and natural justice is that someone accused of doing something wrong must know (i) the identity of the person making the accusation (ii) the details of the accusation. Prospective complainants must be aware that for this reason it is very difficult to act upon anonymous complaints.
- 1.9 Generally the interviewee will know something of the background, but if this is not the case this should be recorded. It may or may not be necessary to briefly explain the background. The investigator must not contaminate the interviewee's evidence by saying what other witnesses have said, and care should be taken to avoid giving information to an interviewee that might influence their own evidence.
- 1.10 It is helpful to obtain basic information about the interviewee, such as (in the case of a health professional/member of staff):
  - 1.10.1 Name and duration of present post
  - 1.10.2 Duration of professional practise, and proportion of that time involving student teaching

- 1.10.3 Any special role within the education programme (e.g. interviewer of applicants to the programme, examiner, specific responsibility for part of the programme)
- 1.10.4 Date and/or time period of contact with the student, and information about that contact (e.g. NHS Consultant responsible for supervising a 6 week clinical placement, academic adviser for years 1-5 of the programme)
- 1.10.5 Stage of the programme when there was an interaction with the student
- 1.11 The interviewee should be asked to confirm whether they know the student under investigation socially, in order that potential conflicts of interest are identified at the outset and to avoid potential embarrassment to both interviewee and student.
- 1.12 Details of the interviewee's experience and contact with the student, with dates and contemporaneous records or other documentation such as emails sent to, or received from, the student, where possible.
- 1.13 Where possible, obtain specific examples of problems or behaviours seen/experienced by interviewee, with an explanation of why the behaviour was a problem and obtain information about what feedback, advice or warnings were given to the student.