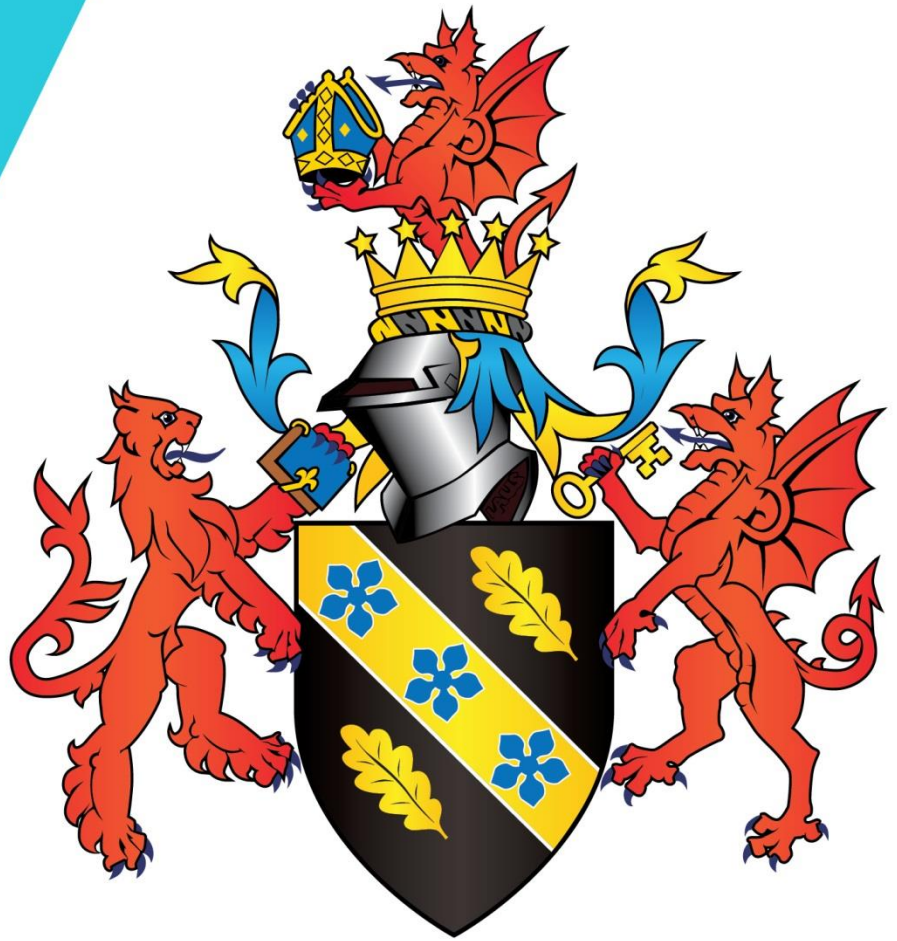




Prifysgol Cymru
Y Drindod Dewi Sant
University of Wales
Trinity Saint David



Fitness to Practise Policy

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Fitness to Practise Policy¹

1 Introduction

- 1.1 This policy covers the University's procedures in relation to fitness to practise and outlines the procedures that should be followed where there is cause for concern in relation to fitness to practise.
- 1.2 For a number of programmes of study (see section 3), students must satisfy the University that they meet the requirements of professional bodies. The University may be required to sign a declaration confirming that an individual is a safe and suitable entrant to the given profession and is fit to practise.
- 1.3 Students enrolled on such programmes of study are required to display appropriate professional behaviour during their studies. This is behaviour that:
 - a) conforms to the relevant code of professional conduct or practise (if any)
 - b) is consistent with the behaviour required by the relevant profession and by the employers of such professional staff;
 - c) does not jeopardise or put at risk the welfare, wellbeing or safety of others, including those within the university community, professional staff, patients, pupils, clients, or members of the public.
 - d) does not jeopardise or put at risk the student's own welfare, wellbeing, or safety.
- 1.4 Examples of circumstances that might render a student unfit to practise are given below. This list is not exhaustive, and the examples may not all be applicable to every programme.

Unprofessional Conduct

- a) Offences against the vulnerable, including children, the elderly and the mentally impaired;
- b) Exploiting the vulnerability of a child, patient or professional client, including establishing a sexual relationship;
- c) Chronic drug or alcohol abuse;
- d) Acting in a violent or aggressive manner on or away from University premises;
- e) Conviction of a criminal offence;
- f) Intimidation of fellow students, pupils, patients, professional clients or staff;
- g) Failure to rectify behaviour that has been subject to any disciplinary actions under the University's regulations;
- h) Repeated inappropriate behaviour or attitude;
- i) Falsification of patient, client or other professional records or providing false or inaccurate statements or answers on self-declaration forms.
- j) Failing to act in a way to ensure the safety and wellbeing of those who are vulnerable;
- k) Academic misconduct.

Health

- l) A physical and/or mental health issues that compromises the individual's ability to comply with the professional requirements.

¹ This policy expands on sections 10.2.3-10.2.7.

2 Purpose

- 2.1 The policy aims to ensure that Fitness to Practise Procedures are conducted in a fair, transparent and timely manner.
- 2.2 The policy also aims to ensure that the University applies the principles of natural justice, exercises an appropriate duty of care, fulfils its statutory and ethical responsibilities to the student, professional bodies and the public at large, and complies with all relevant legislation.

3 Scope

- 3.1 This policy is limited to all students who are registered directly at the University of Wales Trinity Saint David and are enrolled on any programme of study which gives a student a professional qualification and/or entitles the student to register with a Professional, Statutory or Regulatory Body (PSRB). Details of the programmes of study concerned can be found in an appendix to this policy.
- 3.2 For students registered on such programmes of study at collaborative partnership institutions or at structural partners of the University, normally procedures from that institution are followed in the first instance. However, such students are entitled to submit an appeal to the University with respect to the outcome of their case. See section 15 of this policy.
- 3.3 The policy covers both on and off campus settings (e.g. placements, work-based practise & learning, exchanges, and field trips) and covers both harm and risk to the student, the University community, and wider public.
- 3.4 Although disciplines may have specific external regulatory requirements for determining fitness to practise, it is expected that the procedures outlined in this policy will be applied to all students where there is 'cause for concern' in relation to their fitness to practise and that the specific external regulatory requirements will be embedded at set points within this overarching, generic policy.
- 3.5 Cause for concern in relation to a student's fitness to practise can be raised by a member of staff, but also by those within the profession (e.g. employers within a work-based learning setting or placement setting) or by the pupils, patients or professional clients served by the profession.
- 3.6 Fitness to Practise procedures may be started under these regulations up to six months after the student has ceased to be a student of the University. If a student withdraws from the programme after Fitness to Practise procedures have started, the University may decide to continue to implement the procedures to completion.

4 Relationship and interface with other policies and procedures

- 4.1 There are a number of strategies, policies and procedures that are connected to this Fitness to Practise Policy:
 - a. Fitness to Study Policy
 - b. Health and Safety Policy
 - c. Information Technology and Systems Acceptable Use Policy

- d. Prevent procedures
 - e. Safeguarding Policy
 - f. Social Media Policy
 - g. Student Harassment and Bullying Policy
 - h. Student Disciplinary Policy (non-academic misconduct)
 - i. The Strategic Equality Plan
 - j. Unfair Practice Procedure (for academic misconduct)
- 4.2 Before any formal procedures are instigated, the University will consider which procedure(s) are the most appropriate to be used in relation to the alleged offence.
- 4.3 Fitness to Practise procedures are often used in conjunction with another policy, e.g. the Student Disciplinary Policy (non-academic misconduct) or the Fitness to Study Policy.
- 4.4 The University will reassess what procedures are used as appropriate and may change procedures as appropriate.
- 4.5 Reasonable adjustments will be made as appropriate in relation to the fitness to practise process for students who have disabilities or other health issues.

5 Responsibilities

- The Fitness to Practise policy is the responsibility of Senate.
- Fitness to Practise Procedures are overseen on behalf of Senate by the Associate Pro Vice-Chancellor (Student Experience).
- The Deputy Vice-Chancellors are responsible for making decisions in relation to the suspension or termination of studies.
- Case Officers are responsible for undertaking any preliminary risk assessment and for completing an investigation.
- Faculties are responsible for ensuring that students, enrolled on such programmes of study, are informed of the Fitness to Practise standards expected from them in relation to their profession.²
- Students are responsible for both disclosing any circumstances and any changes to the circumstances that could affect their continued fitness to practise (e.g. a change in health status, a subsequent criminal conviction, a complaint or disciplinary matter that arises during a work placement).

6 Definitions

- 6.1 In addition to the Student Code of Conduct which sets out expected standards of behaviour of all enrolled students, there are fitness to practise requirements for particular disciplines. Any behaviour that contravenes either the Student Code of Conduct or any discipline specific professional requirements will 'cause concern' in relation to a student's Fitness to Practise.
- 6.2 'The student' = the student about whom a cause of concern in relation to fitness to practise has been raised.

² For the responsibilities of Faculties in relation to admission of students to such programmes of study see the University's Admission Policy. A Disclosure and Barring Service (DBS) check is a mandatory requirement for all students working with children, young people and vulnerable adults.

6.3 PSRB = Professional, Statutory or Regulatory Body.

7 Support

- 7.1 The welfare of students and staff is paramount to the University. Any cause for concern raised in relation to fitness to practise is likely to have an adverse impact on the student.
- 7.2 The University will ensure that all parties involved in Fitness to Practise Procedures have access to support, information, advice, and assistance throughout the process. Where appropriate the University will refer to external support services. Support can take a range of forms, depending on what is needed and appropriate in each individual case.
- 7.3 Students in relation to whom Fitness to Practise Procedures are instigated will be treated fairly and no presumptions will be made about their fitness to practise until the relevant process has been concluded (see also 11.3 and 11.5).
- 7.4 Students will be able to access such support through the Student Services Department of the University throughout the Fitness to Practise Process.

8 Informal resolution

- 8.1 Although, depending on the severity of the situation, the University may instigate immediately formal Fitness to Practise Procedures, normally it would be expected that it was first attempted to use informal interaction and intervention methods.
- 8.2 Students who are concerned about a change in their circumstances that could affect their continued fitness to practise are encouraged to contact the Student Services Department, their welfare contact in their School or Faculty, or their academic or personal tutor to consider together what solutions may be appropriate. An action plan may be drawn up.
- 8.3 Staff who are concerned about a student's fitness to practise can either approach the student to try and ascertain whether there is an issue that may require support or suggest that the student contacts their personal or year tutor, the Faculty's or School's welfare link, or the Student Services Department for advice and support.
- 8.4 Professionals who are concerned about a student's fitness to practise (e.g. as a placement provider) are asked to contact the student's School or Faculty.
- 8.5 If the student responds positively to informal intervention methods and support, there would normally be no need for further action. If a student fails or unable to respond positively or refuses to cooperate, formal procedures will normally be started.

9 Criminal processes

- 9.1 In the event of external criminal processes being commenced in relation to alleged non-academic misconduct, please consult section 8 in the Student Disciplinary Policy (non-academic misconduct).

10 Formal procedures: general principles

- 10.1 Formal procedures are instigated on either or both of the following grounds:
- i. any conduct which may render that student a person not fit to be admitted to and practise that profession;
 - ii. any health issue or condition which may render that student a person not fit to be admitted to and practise that profession.
- 10.2 All fitness to practise cause of concerns will be handled by an appropriately independent member of the University (= Case Officer).
- 10.3 References in this policy to steps or actions by specific University post holders shall be read as including reference to their nominees. In addition, in order to avoid delays or potential conflicts of responsibilities, other staff members may undertake tasks allocated to specific post holders.
- 10.4 Delays to placements may occur as a result of a case being referred to Fitness to Practise Procedures.
- 10.5 Whilst seeking to ensure consistency of approach and application, the University reserves the right to vary the precise details of the procedure applied to the circumstances of a particular case (e.g. depending on the discipline specific requirements in relation to fitness to practise).
- 10.6 The University will wherever possible seek to adhere to the time limits outlined within these procedures, but in cases where there are special circumstances which require variance from specified time limits, the student will be advised of the reasons for this.
- 10.7 The University reserves the right to take no further action at various stages of the fitness to practise procedures if appropriate (e.g. if there is insufficient evidence to support an allegation of misconduct).
- 10.8 During the application of this policy the University reserves the right to adjourn any fitness to practise investigation or hearing and reconvene at a later date.
- 10.9 Students against whom a fitness to practise cause of concern is raised will be informed of the allegation at the outset.
- 10.10 The student will be invited to any meeting or hearing, normally at least three clear working days before the meeting. However, there may be circumstances where an urgent risk assessment or investigation is required and in this case a verbal invitation with less than two days' notice will be given.
- 10.11 Where possible and practical, the student will be given the opportunity to attend any meetings or hearings related to the fitness to practise proceedings or any appeal in person. However, the University reserves the right to proceed with any investigative meeting, fitness to practise hearing or appeal meeting in the absence of the student, subject to the student having been properly notified of the date and time of the hearing (failure not to attend without due notification may lead to disciplinary action), or in cases where criminal proceedings do not allow the student to attend in person.

- 10.12 The student will have the right to be accompanied by a person of his/her choosing at any investigative meeting or fitness to practise hearing and is required to inform the University in writing in advance of any meeting or hearing whether he/she intends to be accompanied. The accompanying person shall not normally contribute to the discussions, but their contribution may be invited if it is believed that this will assist in reaching a decision. Legal representation is not allowed.
- 10.13 The student will be advised of the identity of the Case Officer and, if held, of the members of a Fitness to Practise Panel.
- 10.14 The rights and interests of both the student and any victim(s) of the alleged misconduct will be balanced fairly and equally.
- 10.15 All relevant parties will be supplied with a copy of this policy and procedures.
- 10.16 The University will ensure that all written records related to the case are clear, accurate, and appropriate, and will be stored appropriately.

11 Precautionary action

- 11.1 At an early stage in the proceedings, a risk assessment, using the risk assessment form, shall take place to assess whether there is a risk to the student, a risk to any member(s) of the University community or a risk to anyone associated with the student's intended profession. This risk assessment will include consideration of support arrangements that need to be put in place for all parties involved.
- 11.2 The student will, where possible, be consulted as part of the risk assessment to represent his/her views.
- 11.3 If risk levels are high, precautionary measures may be imposed. Precautionary action must be reasonable and proportionate and may include the imposing of certain conditions, a suspension from studies, or exclusion from any or all University grounds and/or facilities pending the outcome of fitness to practise proceedings. The suspension and/or exclusion may be qualified or partial where appropriate and will be for a fixed term.
- 11.4 Precautionary measures involving a suspension of studies must be approved by a Deputy Vice-Chancellor.
- 11.5 A precautionary suspension, exclusion or set of conditions should not be regarded as a penalty and does not indicate that the student is not fit to practise.
- 11.6 Precautionary measures may be put in place if they are necessary:
- a. to ensure that a full and proper investigation can be carried out and/or
 - b. to protect the student and others whilst the allegation is being dealt with as part of Fitness to Practise Procedures.
- 11.7 When precautionary measures are put in place the student will be informed of these in writing and the reasons for the set of measures will be explained. A meeting may be convened to explain precautionary measures.

- 11.8 The student may appeal against the precautionary measures imposed, by submitting a written request stating the reason for the appeal to office of the Associate Pro Vice-Chancellor (Student Experience) within five clear working days of the date issued on the notice of the precautionary measures. The student will be notified of the final decision of his/her appeal within ten working days of the receipt of the letter requesting an appeal.
- 11.9 Whilst the precautionary measures are in place, the student may request a review of the suspension, exclusion or set of conditions if there is a relevant change to his/her circumstances. This request should be made in writing to the office of the Associate Pro Vice-Chancellor (Student Experience), who will normally respond within ten clear days of the receipt of the letter.
- 11.10 If the student fails to comply with any precautionary measures, the precautionary measures will be reviewed which may result more serious precautionary measures being imposed by the Associate Pro Vice-Chancellor (Student Experience) (or nominee). See also 11.4.
- 11.11 Precautionary measures will be reviewed at regular intervals during the formal procedures.

12 Procedures for investigation

- 12.1 The purpose of the investigation is to gather all information necessary to establish the facts in relation to the cause for concern and to enable a decision as to whether the student is fit to practise.
- 12.2 As part of an investigation, normally all parties are interviewed separately. Any witnesses are normally also met as part of an investigation. To aid the investigation, all involved parties will be asked indicate if there are any relevant witnesses that need to be consulted.
- 12.3 As part of an investigation, the Case Officer will consult with the student to explain the cause for concern and allow the student the opportunity to respond to the allegation, and provide the Case Officer with any evidence that they wish to be taken into account.
- 12.4 As part of the investigation, the Case Officer may consult as appropriate with the relevant PSRB in order to seek their advice.
- 12.5 The entire investigation is normally concluded within 30 clear working days of the offence being alleged.

13 Formal Procedures

- 13.1 When an investigation has concluded, the Case Officer submits the investigative report to the Associate PVC (Student Experience) who will decide on the next step in the procedure.
- 13.2 If the case is straightforward, the Associate PVC (Student Experience) will explain the rationale for the procedure followed after the completion of the investigation and

confirm the outcome to the student in writing, normally within ten clear working days of the completion of the investigation. A meeting may be conveyed with the student to discuss and explain the outcome.

- 13.3 If the case is complex, it will be referred to a Fitness to Practise Panel. The rationale for the procedure followed after the completion of the investigation, the date of the panel, membership, and format of the Fitness to Practise Panel will be communicated to the student in advance of the proceedings by the office of the Associate Pro Vice-Chancellor (Student Experience), normally not less than ten clear working days in advance of the meeting.
- 13.4 Any documentation for the meeting of the panel will be circulated to the members of the Fitness to Practise Panel, the student and the Case Officer, normally not less than five clear working days in advance of the meeting.
- 13.5 The decision to terminate the student's studies at the University permanently (13.2.2.iii and 13.2.2.iv) will need to be approved by a Deputy Vice-Chancellor, with notification given to the Chair and Clerk of Council.
- 13.6 Following the meeting the student will be formally notified of the outcome in writing within five clear working days of the meeting of the Disciplinary Panel, confirming the imposition of any sanction.

14 Outcomes

- 14.1 In making any fitness to practise decisions the University will determine:
 - a. whether the alleged facts and matters occurred on the balance of probabilities;
 - b. whether those facts and matters affect a student's fitness to practise and, if so, the level of seriousness of the breach of professional behaviour;
 - c. what decision (if any) should be made in relation to a student's fitness to practise.
- 14.2 The University is able to make the following decisions in relation to fitness to practise cases:
 - 14.2.1 That the student **is** fit to practise and is
 - i) permitted to continue with the programme without further action;
 - ii) permitted to continue with the programme subject to conditions and requirements as defined/required by the Fitness to Practise Panel;
 - iii) permitted to continue with the programme but required to repeat a specific part of parts of the programme as defined by the Fitness to Practise Panel;
 - iii) permitted to continue with the programme but that a formal warning be placed on the student's record;
 - iv) subject to any other action considered appropriate by the Fitness to Practise Panel to enable the student's successful completion of the remainder of the programme.
 - 14.2.2 That the student **is not** fit to practise and

- i) is required to suspend his or her studies for a specified period of time, following which the Fitness to Practise Panel will review the conditions set and decide whether to re-admit the student to the programme;
- ii) the student's studies on a programme leading to a professional qualification be terminated, but recommend that the student may seek advice to be admitted to an alternative programme within the University;
- iii) the student's studies be terminated and the student to exit the University with an interim award, which may or may not satisfy professional requirements;
- iv) the student's studies be terminated and the student be required to withdraw from the University without an award;
- v) exceptionally, recommend that an award already made is withdrawn.

All decisions made under 14.2.2. will be recorded on the student's record.

15 Appeal

- 15.1 The student may raise an appeal against a fitness to practise outcome. Any appeal needs to be submitted in writing to the office of the Associate Pro Vice-Chancellor (Student Experience) and needs to be received on the appropriate appeal form, normally within 15 clear working days of the date of the letter notifying them of the outcome of their case.
- 15.2 Students registered at a collaborative partnership or a structural partner of the University may submit an appeal in writing to the office of the Associate Pro Vice-Chancellor (Student Experience) in relation to an institutional level outcome.
- 15.3 Appeals received after the above deadline will be deemed to be out of time and may not be considered unless there is independent evidence to show compelling reason as to why the appeal was not received in a timely manner. The University will not normally consider any appeal submitted more than 12 months after the receipt of outcome.
- 15.4 The Office of the Associate Pro Vice-Chancellor (Student Experience) will acknowledge receipt of the appeal normally within 5 clear working days. If the appeal has not been acknowledged within 5 clear working days the student should contact the office of the Associate Pro Vice-Chancellor (Student Experience) to ensure that the was actually received.
- 15.5 The request for the right to appeal will only be granted if there is evidence of the following:
 - irregularities in the conduct of the Fitness to Practise Procedure, which are of such a nature as to cause reasonable doubt whether the same decision would have been reached had they not occurred;
 - the existence of relevant evidence and compelling reasons why this evidence was not provided earlier in the Fitness to Practise process;
 - the outcome was not reasonable given the circumstances of the case.

- 15.6 An appeal will be considered by an appropriate senior officer from the University, not previously involved in the matter. .
- 15.7 The outcome of the appeal will be confirmed in writing by the office of the Associate Pro Vice-Chancellor (Student Experience), normally within 20 clear working days of the appeal being received. The appeal decision is final.
- 15.8 Once University's processes have been exhausted, the student will be advised via a Completion of Procedures letter that a complaint may be made to the Office of the Independent Adjudicator (OIA) for Higher Education. Complaints to the Office of the Independent Adjudicator (OIA) for Higher Education must be made within 12 months of the date of the Completion of Procedures letter. Full details of the procedure will be available from the OIA website: www.oiahe.org.uk.

16 Confidentiality parameters

- 16.1 The University will be mindful of its obligations under the Data Protection Act 1998 and the Equality Act 2010 in relation to any information shared about fitness to practise cases.

17 Monitoring

- 17.1 A fitness to practise case overview report will be submitted annually to Senate by the Associate Pro Vice-Chancellor (Student Experience). This report will also monitor the effectiveness of the policy.

18. Resource implications

Implication	Detail
Finance	<i>Training for all University members of staff involved in fitness to practise procedures (e.g. Case Officers, Chairs of Fitness to Practise Panels, staff providing support to any party involved in an incident, senior members of staff)</i>
Staff	<i>No additional resource anticipated.</i>
Assets	<i>There are no identified asset costs.</i>
Partners	<i>See sections 3.2 and 15.2</i>
Timescales	<i>Once approved the policy will be implemented immediately. The policy will be regularly monitored to ensure ongoing compliance with relevant legislation.</i>
Leadership	<i>APVC (Student Experience)</i>

19. Impact Assessment

Implication	Impact considered (Yes/No)	Impact Identified
Legal		<i>The policy identifies action taken if the offence is also subject to criminal proceedings / legal action. The policy conforms with the Human Rights Act 1998, the Equality Act 2010 and appropriate consumer legislation.</i>
Contribution to the Strategic Plan		<i>The policy aligns with the values expressed in the Strategic Plan.</i>

Risk analysis		<i>Policy compliance will mitigate the risk of students entering professions for which they are not fit to practise.</i>
Equality		<i>The policy will ensure adherence to provisions of the Equality Act.</i>
Welsh language		<i>The policy aligns with principles expressed by the Welsh Language Act.</i>
Environmental and sustainability		<i>None identified.</i>
Communication / Media / Marketing		<i>The policy will be made available to staff and students via MyDay.</i>

20. Policy author: Dr Mirjam Plantinga, APVC (Student Experience)

Document version control

Version No.	Reason for change	Author	Date of Change
0.1	Draft policy	MP	15.12.16