



office of the
independent
adjudicator

'for students in higher education'

The Good Practice Framework:

*Fitness to
practise*

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List of case studies

This guidance contains a number of case studies illustrating examples of good practice.

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Introduction

1. The [Good Practice Framework: handling complaints and academic appeals](#) sets out core principles and operational good practice for higher education providers in England and Wales. The core principles are: **accessibility; clarity; proportionality; timeliness; fairness; independence; confidentiality;** and **improving the student experience.**
2. Most professional bodies make fitness to practise a requirement for registration to practise. The actual requirements for fitness to practise will vary from body to body. Higher education providers that run courses leading to professional qualifications should have in place procedures that ensure any concerns about a student's fitness to practise are dealt with fairly, promptly and proportionately.
3. This section of the [Good Practice Framework](#) gives good practice guidance for providers in designing fitness to practise procedures and in handling individual cases. It is intended to help providers treat their students fairly, not to provide answers to what are often complex questions that involve professional judgment.
4. The section should be read in conjunction with the [Disciplinary procedures section](#), which sets out principles of procedural fairness. However, a fitness to practise process is distinct from a disciplinary process. The purpose of a fitness to practise process is not to punish the student for wrongdoing. It is to ensure the safety of the student and those around them, including members of the public, and to safeguard public confidence in the profession. The process should be supportive even when the outcome is that the student can't continue with their studies.
5. The documents referred to in this section of the Good Practice Framework, and other useful sources of guidance, are listed under Useful resources at the end of the section. Although the documents and guidance we refer to relate to different professions, we think that general principles can be applied to any fitness to practise proceedings.

What is fitness to practise?

6. Fitness to practise is the ability to meet professional standards; it is about character, professional competence and health. According to the Health and Care Professions Council (HCPC), someone is fit to practise if they have “the skills, knowledge, character and health to practise their profession safely and effectively”¹.
7. Providers have a duty:
 - to ensure that students on a professional course are fit to practise in that profession, or will be when they complete the course;
 - to protect present or future patients, clients, service users and members of the public;
 - to safeguard public confidence in the profession;
 - to comply with the requirements of professional/regulatory bodies; and
 - to ensure that students are not awarded a qualification that permits them to practise a profession if they are not fit to do so.
8. Different professions have different regulatory systems and structures and different routes to qualifying and practising. Some professions have a professional body and a separate regulator. This means that providers are likely to have different levels of responsibility for assuring fitness to practise for the variety of professional courses they deliver.
9. The provider will have a close relationship with the professional body or regulator, which will generally have some requirements for the structure and content of the course. Professional bodies may need to approve some core or compulsory requirements for course content, to set assessment criteria, and to carry out inspections. They may request that the provider certifies (at a minimum) that the student has not only met the provider’s assessment criteria, but is also of good character at the end of the course. Professional bodies normally publish guidance to providers and students about fitness to practise issues. Providers should pay close attention to that guidance, and make sure that their students know about it and understand it.

Where providers have concerns about a student who is already a registered member of a profession, then they have a responsibility to raise those concerns with the relevant professional body, the Disclosure and Barring Service, and/or the student’s employer.

¹ Health and Care Professions Council fitness to practise (this and other documents referred to are listed at the end of this document).

10. Examples of issues that may lead to fitness to practise concerns, if the student's ability to meet professional standards may be impaired, include:

- academic misconduct (for example plagiarism, cheating in examinations, forging records);
- other disciplinary offences (for example antisocial, abusive or threatening behaviour, sexual misconduct, violence, bullying or harassment, damage to property, internet access abuse, substance/ alcohol abuse);
- health and safety breaches;
- failure to disclose convictions or other information that the student is required to disclose;
- inaccurate or falsified placement documentation;
- unsafe practice, incompetence or requiring too much supervision;
- unprofessional behaviour, including:
 - lack of respect, aggressive or poor attitude, laziness;
 - indiscipline, failure to follow dress code, inappropriate use of mobile phone, poor time keeping, poor attendance;
 - failure to self-reflect, lack of insight;
 - failure to engage with investigations into unprofessional behaviour;
 - poor self-management, lack of personal accountability;
 - dishonesty;
 - breaking patient confidentiality;
- behaviour away from the student's studies, including:
 - criminal conviction eg violent offence; offence of dishonesty;
 - disruptive behaviour in the community;
 - inappropriate use of social media;
- safeguarding concerns;
- poor mental or physical health or serious physical impairment that interferes with the student's ability to practise safely (see section on Health and disability issues below);
- failure to seek help or engage with appropriate services in relation to health issues; and
- poor communication or language skills.

Information for applicants

11. As these examples indicate, concerns about a student's fitness to practise may arise at any time throughout the student's studies. Providers should ensure that all staff who may be aware of any of these matters are aware of the possibility of fitness to practise implications for students on professional courses.
12. The Nursing & Midwifery Council (NMC) publishes guidance that applies to qualified nurses and midwives which gives a helpful example of fitness to practise principles. A link to this guidance, along with links to guidance from other professional bodies, can be found in the Useful resources section of this document.
13. Providers should set out the professional requirements of the course clearly in the information available to students at the application and induction stage. This should include any information that the student will need to disclose when they apply or before they are able to go on a placement. This information may include:
 - whether the student has relevant previous convictions. Whether the conviction is relevant will depend on the course, and the nature of the conviction and when the conviction occurred;
 - any safeguarding concerns including concerns about close family members;
 - whether the student has previously been found not fit to practise;
 - whether the student has a physical, mental or cognitive impairment or health condition that may be relevant to their ability to reach the necessary professional requirements;
 - any other health-related matters such as whether the student has had the necessary immunisations; and
 - any relevant information about their personal history, for example, social work students who have been social care service users.
14. Providers should tell students where they can go for advice about what information they may need to disclose, and the possible consequences of not disclosing relevant information.
15. When a student discloses information to the provider during the application process it is important that the provider considers that information and decides whether it will affect the student's fitness to practise, or the support that they will need, well before the student begins their studies.
16. In some cases, a provider may be able to give a disabled student more support than might be available in the workplace. This might mean that the provider can support the student to achieve the necessary professional and academic standards, but that they might not be able to practise because their support needs cannot be met in the workplace. If the provider knows this might be an issue, it should explain to the student at the application stage that there is a risk they may not be able to practise their profession, so that they can make an informed choice about whether to begin their studies.

Supporting the student to achieve fitness to practise

17. Providers have an important role in supporting students to achieve fitness to practise, in ensuring that students understand why the professional standards are important and what this means for them.
18. As well as giving students information about what they need to disclose when they apply, providers should, at an early stage, bring to students' attention the expected standards of behaviour, and the consequences of breaching those standards. This can be set out in codes of conduct, student charters and the relevant professional body's guidance. Students should be made aware of these early in their studies, regularly during the programme, and before practical placements.
19. Providers should make sure that course structures incorporate opportunities for students to work through examples of fitness to practise issues, for example through role play, so that they are well equipped for practical placements.
20. Students are expected to behave professionally and competently at all times. But students who fall short of the expected standards of professionalism and competence early in their studies are more likely to have the chance to improve their behaviour than those nearing the end. Some professional qualifications involve different levels of study, for example undergraduate and postgraduate levels. It is the responsibility of the provider to teach, train, mentor and support students towards the standards that apply at each level. The exception to this would be a student who is already registered as a member of a

profession and is studying towards a further qualification in that field. Those students would be expected to maintain professional standards from the beginning of their course.

Health and disability issues

21. Sometimes fitness to practise concerns are related to the student's mental or physical health, or to a disability.
22. Providers should be aware of their duties under the Equality Act 2010 to make reasonable adjustments for disabled students in relation to a provision, criterion or practice other than a competence standard. A competence standard is defined in the Equality Act as "an academic, medical or other standard applied for the purpose of determining whether a person has a particular level of competence or ability"².
23. Providers have a responsibility to ensure that students are properly supported during practical placements. The providers should agree with the student before the placement starts what information can be shared with the placement to make sure that support is in place.
24. If the matter leading to the fitness to practise concern may be related to a student's disability, the provider should consider whether the student requires additional support, and whether it should make reasonable adjustments to the way in which it is assessing the student. This might include agreeing and arranging additional

² Equality Act 2010 Part 5, Chapter 1, Qualifications Section 54

support for the student in their practical placement setting. Providers should consider each case individually.

25. Providers should 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. Providers should support students in obtaining this evidence, for example, by directing them to the appropriate expert and paying for the report where this is proportionate.
26. Most regulators now provide extensive guidance about health and disability issues, which may be relevant to the provider/student relationship. For example, the General Medical Council (GMC) and Medical Schools Council (MSC) publish professional behaviour and fitness to practise guidance, which says:

“In most cases, health conditions and disabilities do not affect a medical student’s fitness to practise, as long as the student:

- demonstrates appropriate insight;
- seeks appropriate medical advice; and
- complies with treatment.

Medical schools must make adjustments, where possible, to allow a student to fulfil the core competencies of their course and enable them to study and work safely in a clinical environment”³.

27. A provider may be able to make adjustments to a student’s learning and working environment to make it possible for that student to meet competence standards.

The GMC’s “Welcomed and valued” guidance⁴ provides practical suggestions to medical schools to make their courses more accessible to students.

Examples of reasonable adjustments

Providers must make reasonable adjustments to the learning environment and assessment methods. (There is no requirement to make adjustments to competence standards.)

- Changes to the physical environment to improve access to facilities.
- Providing or allowing students to use assistive tools (such as a visual display stethoscope) or technology (such as dictation software).
- Adjustments to teaching and learning, including providing information in a variety of formats.
- Adjustments to examinations and practical assessments, such as extra time or provision of a scribe.
- Additional training time when a student’s health means they can’t meet learning objectives in time.
- Flexible training – extending the programme to allow reduced working hours on placement so that a student with a disability can balance work and rest, while still meeting the minimum placement hours required.

3 GMC and MSC Professional behaviour and fitness to practise: guidance for medical schools and their students (Published May 2016, effective from 1 September 2016)

4 GMC Welcomed and Valued: Supporting disabled learners in medical education and training

28. Providers have an anticipatory duty to make reasonable adjustments for disabled students. Providers should work with disabled students and disabled people's organisations when considering how best to remove barriers to learning. When students think that they might need additional support it is important for them to tell the provider. Although students don't have to tell providers about a disability, providers should make sure that there is a supportive environment that encourages them to; and that students understand the need for insight into their condition. Providers should explain to students that they need to tell the provider if there is anything that might affect their ability to study or fulfil competence and for which they might need additional support, even if they don't want to give details of what it is.

CASE STUDY 1

Health and disability

A trainee teacher has anxiety and depression. The provider meets with the trainee to discuss what it can do to support them during their studies and while they are on placement in schools and a support plan is agreed.

The trainee has an anxiety attack at the school where they are on placement and the school sends them home. The provider meets with the student to discuss what has happened and to see whether there are any fitness to practise concerns about the student's health. The student says that their counsellor is helping them develop strategies for managing their anxiety. The provider agrees some additional support with the student and the school, and the student continues with their studies.

CASE STUDY 2

Health and disability

A third-year dentistry student has dyslexia. The provider agrees a range of support measures including additional time in assessments, study mentoring, library assistance and advance copies of lecture materials.

The student is accused of stealing money from another student's bag. The provider takes action under its disciplinary procedures and explains to the student that it also has concerns about the student's fitness for practice. The student denies stealing the money and blames another student.

At the disciplinary hearing the student admits that they stole the money. The disciplinary panel tells the student to write a letter of apology and to pay the money back. It refers the student under the provider's fitness to practise process.

The provider's fitness to practise panel considers the conclusions of the disciplinary panel and hears from the student, who says they were under a lot of pressure because of their dyslexia. The panel decides that the student's fitness to practise is impaired because they have behaved dishonestly, and then lied about it. It decides that the disciplinary offence was not linked to the student's dyslexia.

GMC and MSC guidance on considering health and disability issues ⁵

Guidance published by the GMC and MSC says:

“Students with health conditions – in particular, those with mental health conditions – are often identified as having problems because they display unprofessional behaviour that is out of character, such as poor attendance or failure to engage with their studies. Medical schools should give their staff training to help them identify, at an early stage, students whose behaviour indicates an underlying health issue.

Medical schools can use low-level concerns processes to identify and support students with health conditions. They can also use their fitness to practise procedures where making adjustments and providing support have been tried without success. The fitness to practise process can help students by making sure they access the support that will enable them to complete their course.

When a student has a medical problem, it’s important to consider their fitness to study – whether they are well enough to participate and engage in their programme.”

⁵ GMC and MSC Professional behaviour and fitness to practise: guidance for medical schools and their students (Published May 2016, effective from 1 September 2016)

Good fitness to practise procedures

Straightforward language

29. Providers should write their regulations and procedures clearly and in straightforward language. They should make them accessible to students. Footnotes should be kept to a minimum and acronyms should be defined. Any links to information on external professional bodies' websites should be kept up to date.

Procedural fairness

30. Fair procedures follow the principles of "natural justice". Providers should follow the principles of procedural fairness set out in the [Disciplinary procedures section](#) of the Good Practice Framework when deciding whether the student has done what they are accused of doing. In fitness to practise procedures providers should be particularly mindful that:

- students understand any allegations and/or concerns, and how they relate to the relevant professional standards and the student's fitness to practise;
- reasons should be given for decisions reached about the student's health or behaviour, and what to do about it;
- there should be a route of appeal; and
- the investigation, any hearing and any appeal should be carried out as quickly as possible, consistent with fairness.

31. Where a decision has been made that a student's fitness to practise may be impaired, the fitness to practise process should normally involve a hearing before a specialist panel.

32. If the facts have not already been established (for example in criminal proceedings or disciplinary proceedings), the hearing should be a two-step process. The panel must first establish the facts and allow the student an opportunity to put forward their defence. Where appropriate, the provider should adhere to the steps and principles outlined in the [Disciplinary procedures section](#) of the Good Practice Framework.

33. Once the facts leading to the fitness to practise concerns have been proven, either through a separate disciplinary procedure or a criminal conviction, or during the fitness to practise hearing, the panel will need to consider whether the established facts lead to a genuine fitness to practise concern, and if so, what action should be taken.

Confidentiality and anonymity

34. Providers should keep in mind their obligations under data protection legislation regarding sensitive personal information or "special category data". This includes explaining to students how the provider will store and use information about them, and in what circumstances it might have to pass information to external bodies. Information about students who are subject to fitness to practise proceedings should be kept confidential as far as possible. The information should be disclosed to as few people as possible, and only to those involved in investigating or deciding the matter. Sensitive information should not be disclosed to panel members until their membership has been confirmed (so that

the student has had an opportunity to object to a panel member, for example on grounds of bias, before they have seen the sensitive information).

35. If a person makes an anonymous complaint about a student, for example under whistleblowing procedures, the provider needs to take extra care to ensure that it investigates the concerns carefully. Those investigating the concerns will normally need to know the identity of the person making the complaint so that they can rule out the possibility that the report is made maliciously. Witnesses who are giving their professional opinion are not expected to be anonymous. If the witness does not agree

to the student knowing their identity it may not be appropriate to rely on their evidence. Where evidence comes from service users during a practice placement, the placement provider will need to protect the confidentiality of service users, particularly where those service users are children or vulnerable adults. In these cases, the provider should obtain as much information and evidence from the placement provider as possible. This may include a summary of allegations made by service users, or anonymised witness statements. In every case the student needs to have enough information about the concerns raised to be able to respond to them.

Burden of proof

The “burden of proof” determines whose responsibility it is to prove an issue. In a fitness to practise case the burden of proof should be on the provider, that is, the provider must prove that the student has done what they are accused of doing. For example, if a student is accused of being rude to service users during a placement, the provider will need to produce evidence to prove this and explain how this impairs the student’s fitness to practise.

Once a provider has produced evidence to prove an allegation, if the student disputes the allegation they will need to provide evidence to rebut it. Students will also need to prove any mitigating factors that they wish to rely on.

Standard of proof

The “standard of proof” is the level of proof required. In legal proceedings the standard of proof in criminal cases is normally “beyond reasonable doubt”, which is a very high standard. In civil cases it is normally “the balance of probabilities”, that is, it is more likely than not that something happened. Although the “balance of probabilities” standard is lower than “beyond reasonable doubt”, decisions must still be supported by evidence. The standard is higher than simply believing that something is likely to have happened.

Section 112 of the Health and Social Care Act 2008 says that the civil standard of proof must be used in fitness to practise procedures for healthcare students.

A provider’s regulations should explain clearly the standard of proof required in fitness to practise cases but, if they don’t, it is reasonable to assume that it is “balance of probabilities”.

If a provider sets the criminal standard of proof as “beyond reasonable doubt” in their fitness to practise procedures it must ensure this standard is applied in practice.

Timeliness

- 36.** Fitness to practise proceedings can be particularly stressful for students, and the outcomes can have serious consequences for their studies and future careers. It is therefore particularly important that the investigations, hearings and appeals are conducted as quickly as possible, consistent with fairness. It is good practice where possible:
- to tell the student as soon as possible that fitness to practise concerns have been raised;
 - to complete the entire process, including any appeal, within 90 days of the student being told of the concerns; and
 - where the student has been through related disciplinary proceedings, the fitness to practise process should be carried out as quickly as possible, and within 45 days of the disciplinary decision. In such cases the fitness to practise process will not need to prove facts, allowing for proceedings to be concluded swiftly.
- 37.** It may be reasonable for the process to take longer than 90 days where, for example, the case is complex, the student or witnesses are not available to attend meetings or hearings, or where proceedings are put on hold because of a criminal investigation or the student's impending assessments. Providers may also sometimes find it difficult to assemble a panel with the right professional involvement, or with panel members that have had no previous involvement in the fitness to practise concerns. In those cases, the provider should keep the student and any witnesses informed about the progress of the investigation, and when it is likely to conclude.
- 38.** Where the provider puts in place supportive measures to help the student to reach the

necessary standards, the fitness to practise process should be put on hold.

Support and representation

- 39.** Providers should direct students who are going through fitness to practise procedures to the support services available, for example the students' union, or relevant professional trade unions, which can provide independent support and advice. It is good practice to give students access to support and advice and, where it is not practical to do so internally, providers should consider arranging for students to access support services at neighbouring institutions, partner providers or other local community services. International students are likely to need additional advice and help, for example, with visa issues, with any unexpected costs of having to return to their home country, and with attending meetings and hearings remotely.
- 40.** The provider's fitness to practise procedures should explain who is permitted to accompany or represent the student at meetings and hearings, what that will involve and what is expected of them.
- 41.** Students who have access to well-trained and resourced student support services will not normally need to seek legal advice, although they may wish to in serious cases. It is good practice for providers to permit legal representation in complex cases, or where the consequences for the student are potentially very serious. Most professional regulators permit legal representation when dealing with fitness to practise issues for practitioners.
- 42.** Whether or not the student has a representative, the student will normally be expected to answer any questions about what has given rise to the fitness to practise concerns.

CASE STUDY 3

Representation

A second-year social work student is asked to attend a fitness to practise panel hearing because of concerns about her relationship with a service user. The student denies doing anything wrong and asks the provider for permission to bring a legal representative to the hearing. The student explains that they are already a qualified nurse, and that a finding that they are unfit to practise could have serious consequences, not just for their future on the social work programme, but for their career as a nurse. The provider allows the student to be legally represented.

appropriate, services external to the provider.

Relationship with other procedures

Reasonable adjustments to the process

43. It is good practice to ensure that procedures are available to all students in accessible formats. Providers should consider in each case whether to make reasonable adjustments to procedures to take account of the individual needs of students. It is good practice to keep a record of any adjustments made. In fitness to practise procedures, providers may need to make adjustments for hearings, or allow a student longer to respond to allegations.
44. In some cases, the student may not be well enough to go through a fitness to practise process. In those cases, the provider should offer the student time away from their studies until their health is improved. The provider should explain to the student that the fitness to practise process will start again when the student is ready to return.
45. Providers should tell students who have mental health difficulties about the specific support services available to them, for example counselling services and, where appropriate, services external to the provider.
46. It is important to remember that fitness to practise concerns can arise from disciplinary or misconduct issues, or from health-related or disability issues, and different procedures may apply in each case. Providers must explain in their procedures how those procedures relate to each other. The provider should set out clearly to the individual student how the different processes will be followed in their case and in what order.
47. Fitness to practise is not disciplinary in nature and is distinct from support for study (or fitness to study) processes. A disciplinary matter might lead to fitness to practise proceedings if the behaviour that led to disciplinary action against the student calls into question the student's fitness to practise. The [Disciplinary procedures section](#) of the Good Practice Framework sets out principles of procedural fairness for disciplinary proceedings.
48. If a separate disciplinary process is conducted before fitness to practise proceedings, the student should be given the opportunity to appeal the disciplinary outcome. If the student is disputing the facts of the case, the provider should not usually start fitness to practise proceedings until the internal disciplinary procedure is concluded. It may be necessary to take immediate action to protect the student or others (see paragraphs 71 to 73).
49. Where a student submits a complaint during fitness to practise proceedings, it **may** be appropriate to pause the fitness to practise process while the complaint is being investigated. This will depend on the

nature of the fitness to practise concerns and the nature of the complaint, and how they relate to one another. Where the issues are closely related, it will normally be appropriate for the provider to consider the issues raised in the complaint as part of the fitness to practise process. Providers must keep students informed about which process is being followed, what is likely to happen next and likely timeframes.

- 50. Providers should follow the OIA's guidance on issuing [Completion of Procedures Letters](#) when more than one procedure is being followed.

CASE STUDY 4

Academic misconduct and fitness to practise

A first-year law student is accused of plagiarising an assessment. The student is told that academic misconduct may lead to concerns about fitness to practise. At the end of the disciplinary process, the student is found to have plagiarised the work, but this is because they haven't properly understood and followed guidance on avoiding plagiarism. The student is given a mark of zero, but they are allowed to resubmit the assessment for a capped mark.

The provider then writes to the student to say that it is investigating the fitness to practise concerns. After a meeting with the student, the provider decides that the student has not been deliberately dishonest and that there are no concerns about their fitness to practise. The provider explains this to the student and keeps a record of the process and the outcome on the student's file.

Support for study

- 51. Support for study, or fitness to study, processes apply to all students, not just to those on professional courses, and relate to a student's wellbeing. If a student's health or wellbeing causes the provider concern about that student's ability to study on their programme, the provider may take action under its support for study procedures. This may arise where, for example, the provider has concerns that the student poses a risk to their own health or safety or that of other people (at the provider or placement provider) or the student's behaviour is affecting the learning experience of other students.
- 52. Support for study procedures are different to fitness to practise procedures, but concerns about whether a student is fit to continue with their studies in the short term may lead to concerns about their fitness to practise in the long term. Providers should ensure that students understand the process or processes that will be followed.

CASE STUDY 5**Support for study and fitness to practise**

A veterinary student suffers a deterioration of an existing mental health condition. Other students report that the student has been behaving erratically and has talked about harming themselves. The provider is concerned about the student's wellbeing and takes steps under its support for study process. At the end of that process the student agrees to suspend their studies so that they can get treatment and recover their health. The provider explains that it will need to make sure that the student is fit to practise when they are ready to return.

When the student returns, the provider starts a fitness to practise investigation to see whether the student has taken responsibility for their own health, and whether they have recognised that their health might affect their ability to practise safely and effectively.

The provider decides that the student had been aware that their health was deteriorating and had contacted their GP before the support for study referral. They had shown insight into their health and had also reacted positively to the support for study intervention, getting treatment and support during their period of suspension. There is no suggestion that the student has done anything unsafe. It concludes that the student is fit to practise and can return to their studies.

Behaviour that amounts to a criminal offence

53. If the police or courts are involved, providers should normally wait for the outcome of the investigation or proceedings before conducting an internal investigation. The provider should keep in touch with the student(s) involved and with the police during this process. The provider may need to take some form of temporary action against the student, in order to protect other students, staff members and service users. For example, a student may be suspended, or temporarily withdrawn from their placement. Providers should consider each case individually, weighing up the risk to others against the potential disadvantage to the student of what might be a long suspension while the criminal investigation is happening.
54. Where a student is acquitted of a criminal offence, or where the criminal investigation has been dropped, the provider may still take action under its disciplinary and/or fitness to practise process.
55. If the student is convicted of a criminal offence, the role of the fitness to practise panel is to determine whether what the student has done impairs their fitness to practise.

CASE STUDY 6**Criminal proceedings and fitness to practise**

A student social worker is formally charged with a violent offence. The provider suspends the student from practical placements during the police investigation and subsequent court case. The student is permitted to continue attending academic teaching.

The student pleads not guilty, but is subsequently found guilty of the offence and given a suspended sentence. The provider then starts fitness to practise proceedings.

The student continues to deny that they have committed the offence. The fitness to practise panel does not rehear the allegation but takes as its starting point the student's criminal conviction for the offence. Its role is to decide whether what the student has done impairs their fitness to practise. The panel decides that the nature of the offence means that it is not appropriate for the student to work with vulnerable adults. It therefore decides that the student is not fit to practise and terminates their place on the programme.

events which led to the termination. Where possible it should get witness statements from staff at the placement which the student can comment on. In some cases, it may be appropriate to ask placement staff to attend a fitness to practise hearing.

- 58.** It is reasonable for the provider to attach significant weight to the professional opinion of staff at the placement. But it should also listen to the student's account of what happened on the placement and investigate any factual disputes or allegations that the student has not been treated fairly.
- 59.** If the provider decides that the student should be allowed to continue with their studies (with appropriate support in place) it may not be possible for the student to return to the same placement because the relationship has broken down. If it is the provider's responsibility to find or arrange placements, every effort should be made to find other placement opportunities for the student. It is reasonable for providers to expect students to positively engage in this process. If it proves to be impossible to find an alternative placement the provider should discuss with the student whether they might be able to transfer to another course or what exit awards might be available.
- 60.** Providers should, where possible, distinguish between a student's failure to achieve the standard necessary to pass the placement and a student's fitness to practise. A student who fails to achieve the necessary standards might expect an opportunity to extend the placement or repeat it so that they can improve their practice. A student who is found to be unfit to practise will not be able to continue unless the provider agrees supportive improvement measures to give the student an opportunity to put right the issues identified with their practice.
- 56.** Concerns about a student's fitness to practise often first arise during practical placements in a professional setting, for example in a school or hospital, when students interact with the public. Providers should have clear processes in place to allow for any concerns to be brought to their attention promptly.
- 57.** Where a placement is suspended or terminated because of concerns about the student's fitness to practise the provider should carry out its own investigation into

Placements

CASE STUDY 7

Placements

A trainee teacher is on a placement in a school. The placement school has some safeguarding concerns about the trainee's practice. The school immediately terminates the placement and reports the matter to the Local Authority Designated Officer (LADO), who is appointed by the local authority to investigate child safeguarding concerns. The LADO investigates the concerns and concludes that they are "substantiated". During the LADO investigation the trainee is allowed to attend lectures at the provider but is not allowed to go on a practical placement.

At the end of the LADO investigation, the provider starts fitness to practise proceedings. The trainee's case is considered by a fitness to practise panel. The panel does not reinvestigate the concerns, but considers whether the LADO's decision means that the trainee is not fit to practise. The panel decides that the concerns identified by the placement school and subsequent LADO investigation are so serious that the trainee's behaviour is fundamentally incompatible with being a teacher. The panel concludes that the trainee is not fit to practise and terminates their place on the programme.

Professional judgment

61. The question of whether the student is fit to practise in a particular occupation is often a question that can only be answered by someone with specialist knowledge of that profession. That conclusion would be a professional judgment.
62. A panel exercising professional judgment must do so on the basis of sound evidence. For example, where staff at a placement say that a student's behaviour is unprofessional, the panel should consider witness evidence and placement records to see whether they support the allegations against the student.
63. In some cases, the decision about whether the student is fit to practise will not require professional judgment, for example, where the student is imprisoned for a violent offence.

Record keeping

- 64.** Providers should ensure that they keep proportionate records of fitness to practise proceedings and outcomes. Records should be kept even when the proceedings don't result in any action being taken against the student. This is because behaviour or concerns that are not considered serious enough to need any action may be relevant in later proceedings if the student behaves in a similar way again or other concerns are raised. It is good practice to keep a record even if the student is completely exonerated in case a dispute later arises about the proceedings or outcome. Providers should have clear policies that set out how long such records will be kept, and under what circumstances they might be disclosed to other bodies.
- 65.** The provider should explain to the student what record has been kept and for what purpose.

The process

Preliminary stage / cause for concern

- 66.** It is good practice for providers to have a preliminary stage or a “cause for concern” procedure to assess whether the student’s fitness to practise may be in question, or whether the concern is about less serious competency issues. This stage of the procedure is intended to be developmental and supportive. It gives the student the opportunity to improve their practice or approach.
- 67.** Providers should agree with the student supportive improvement measures, which should be set out in an action plan along with associated timescales for improvement. Providers should make it clear to students what the next steps are if they do not meet the improvements outlined in the action plan.
- 68.** Students need to be able to demonstrate that they have the necessary insight into their behaviour or the issues leading to concerns about their fitness to practise. Providers may ask the student to complete a piece of work to reflect on their practice. Providers should make it clear to the student what the purpose of this work is, how it will be assessed and the resulting consequences if the student doesn’t complete it to a satisfactory standard.
- 69.** It is good practice to tell the student that concerns have been raised about their practice or behaviour, even if the provider decides to take no action. The information the provider gives the student will vary depending on the nature of the concerns raised. If the provider intends to keep a record of the concerns then the student should be allowed to respond to them if they wish to.
- 70.** A provider may sometimes bypass the “cause for concern” procedures if the issue leading to the fitness to practise concern is sufficiently serious. This may be appropriate for example if the student has harmed or is at risk of harming others, or if fitness to practise concerns have arisen following a criminal conviction. It may also be appropriate to move to the more formal stages of the procedure if the student disputes the events or behaviour giving rise to the cause for concern. This is to ensure that the student has a fair opportunity to present their case.

When immediate action is required during a fitness to practise investigation

- 71.** Where a student may be a danger to themselves or others, providers have a responsibility to do what they can to protect their students, staff, service users at practice placements, and members of the public. In some cases, the provider may need to take immediate action, particularly where a student is undertaking a practice placement. These may include, but are not limited to:
- cases involving a threat of serious harm to the student and/or others;
 - cases involving gross misconduct/serious incidences of unprofessional behaviour;
 - cases where a student has demonstrated unsafe practice;
 - cases where the student's mental health is at risk; or
 - cases raising serious safeguarding concerns.
- 72.** Fitness to practise procedures should set out what action a provider can take and in what circumstances and who has the authority to decide this. Examples might include temporarily removing a student from placement but allowing them to continue to attend academic teaching; limiting access to the provider's services; or a period of temporary suspension.
- 73.** The [Disciplinary procedure section](#) of the Good Practice Framework provides further good practice guidance for providers when taking such action.

The formal stage

- 74.** The procedures followed should be proportionate to the nature and complexity of the issues raised and the potential consequences for the student.

Formal stage investigations

- 75.** Where a student's fitness to practise is being considered because of previous findings under a disciplinary procedure, or as a result of a criminal conviction, a formal investigation of the facts is generally not necessary or required.
- 76.** The provider will need to conduct an investigation where the facts of the case have not yet been established, or where further information is needed about the effects of the matter leading to concern about the student's fitness for practice. In those cases, the investigation should be carried out by a member of staff who has had no previous involvement in the case. Staff members charged with investigating fitness to practise concerns should be properly trained, resourced and supported.
- 77.** The investigator should meet with the student as soon as possible. The student should be given notice of the meeting and provided with enough information to allow them to respond to the concern(s), and a copy of the relevant procedure at that time. The student should also be told how to access advice and support, and who can accompany them to the meeting. It is good practice to provide the student with a note of the meeting, but it will not normally need to be a full transcript.
- 78.** It is essential to be clear about what is being investigated and how it applies to the relevant professional standards, to ensure that both the staff member and student understand the purpose and scope of the

investigation and the possible outcomes. The member of staff investigating the case may talk to staff at the provider, staff at the placement, and/or other students. They will also consider documents and other evidence, including medical evidence, the student provides in support of their case. The investigator should also consider any wellbeing issues.

- 79.** The staff member should produce a report based on their investigations which outlines the process followed, the information gathered and their conclusions. The student or their representative should receive copies of the information obtained during the investigation, a copy of the investigation report and information about the next steps in the process. Where necessary, the provider should anonymise personal information obtained during the investigation before sending it to the student or their representative. The student should also be told who they can contact with any queries about the progress of the case.
- 80.** Where the investigator believes that the student's fitness to practise may be impaired, the matter should be referred to a fitness to practise panel hearing. The investigator may present the case to the panel but should not be involved in the panel's decision making.

Fitness to practise panel hearings

- 81.** It is good practice to hold a hearing or meeting with a specialist panel because of the serious potential consequences of fitness to practise proceedings for a student. This is particularly important where there are questions of fact to be decided.
- 82.** The role of the panel will differ depending on whether the facts of the case have already been established (for example in criminal proceedings or disciplinary proceedings). Where the fitness to practise concerns relate to something that has not been proven, the panel must first establish the facts and allow the student an opportunity to put forward their case. The provider should, during this stage of the process, follow the [Disciplinary procedures section](#) of the Good Practice Framework.
- 83.** Once any disputed facts have been decided, either through a separate disciplinary procedure or criminal proceedings, or by the fitness to practise panel, the role of the panel will be to consider whether the established facts lead to a genuine fitness to practise concern and, if so, what action should be taken.
- 84.** All panel members should be properly trained so that they have a clear understanding of the process, the remit of the panel, the possible outcomes, relevant professional requirements and equalities legislation. The panel should include at least one professional with relevant expertise in fitness to practise issues. Some professional regulators require providers to run fitness to practise panels in a certain way. The General Dental Council, for example, requires a registered dental practitioner to be on the panel and makes other suggestions for the composition of the panel. It also lays down requirements for an appeal mechanism.
- 85.** The procedures should set out:
- who may sit on a panel and who may chair it;
 - what would happen if the panel members are unable to agree;
 - that the student can be accompanied and/or represented and by whom;
 - whether the student is permitted to attend the hearing or meeting by alternative means (for example by video call);
 - whether the hearing or meeting will

proceed if the student chooses not to or is unable to attend;

- the process for rearranging the date of the hearing or meeting if the student or other witness is unable to attend for good reason;
- who may attend the hearing or meeting and in what capacity; and
- whether the panel may seek support from legal advisers or other external people.

86. The panel will not normally need to hear oral evidence from witnesses (other than the student) when the facts have already been decided or agreed. Where the facts leading to the fitness to practise concern are disputed, the procedures should also set out that:

- the student may call witnesses;
- whether other witnesses may be called and whether the student may ask them questions directly or through the panel's chair; and
- whether any witnesses may attend by alternative means (for example by video call).

87. The hearing or meeting should be arranged promptly, and the student should be given adequate notice of it. This includes informing the student of the purpose of the meeting or hearing; of their right to attend; how to access advice and support; their right to be accompanied and/or represented and what role any representative or companion is permitted to play in the hearing or meeting. If the student is permitted to attend the hearing or meeting by alternative means (for example by video call) the provider should explain how it will arrange and facilitate this.

88. It is essential to provide the student in advance with information about who will be on the panel and who will attend and

what their role will be. Students must also be given a copy of the information to be considered before the hearing.

89. Fairness requires panels to be free of any bias or any reasonable perception of bias. In the context of a fitness to practise process, a perception of bias might arise where the student has a close relationship with a panel member, or the student has made a formal complaint about a panel member. In fitness to practise proceedings, panel members are more likely to know the student involved because it may be necessary to involve staff members with expertise of the profession and the course. However, the provider must ensure a balance of panel members and those members should have had no previous involvement in the fitness to practise concerns. The panel should include some members who are completely independent and providers may need to invite staff from other institutions. The student should have the right to object to a panel member before information about their case has been disclosed to panel members.

90. The cultural mix or diversity of the panel may be a relevant consideration in some cases and is important in reducing the risk of unconscious bias. The provider needs to consider the structure of panels and take steps to ensure that those responsible for reaching a decision come to the matter afresh and are properly trained, resourced and supported.

91. Fitness to practise procedures are internal to a provider and should not be unduly formal. It will not normally be necessary for a student or the provider to be legally represented at a fitness to practise hearing, but it is good practice for the procedures to permit this where there are good reasons.

92. A written record should be kept of any meeting or hearing, setting out who attended, a brief outline of the proceedings and the reasons for the decisions taken, including the outcome for the student and/or any conditions applied. The reasons given should be detailed enough to enable the student to understand the reasons for the decision. It is not normally necessary to make an oral recording or full transcript of the meeting or hearing, but it may be helpful to do so, particularly where the case is complex or there is a significant factual dispute. The written record should include details of any disciplinary decision or criminal conviction that led to the fitness to practise concerns.

CASE STUDY 8

Fitness to practise procedures

A nursing student is accused of falsifying their attendance record while on placement. The provider writes to the student inviting them to a meeting with their personal tutor and the Head of Department. The letter sets out the allegation and how it relates to the standards framework for nursing and midwifery education, and explains the fitness to practise process. The letter tells the student where they can get support, and that they can bring someone to the meeting.

The student denies the allegation at first, but then accepts that they copied their placement supervisor's signature onto the placement record on one day when they had forgotten to get the supervisor to sign it. The student shows that they did attend the placement that day.

The provider asks the student to write a reflective assignment to show what they have learned from the experience and the student does that. The provider thinks that the student doesn't show enough insight in the reflective assignment in what they have done and why it was wrong.

The provider tells the student that there will be a panel hearing to consider whether they are fit to practise. The provider writes to the student setting out the process for the hearing, who will be on the panel, who will attend and who the student can bring with them.

Relevance of previous misconduct or fitness to practise findings

93. It is reasonable for a provider to consider a student's previous disciplinary and fitness to practise record and, if relevant, their health record, when determining their overall fitness to practise.

CASE STUDY 9**Previous fitness to practise concerns**

At a fitness to practise hearing, a panel decides that a fourth-year medical student has behaved unprofessionally towards patients while on a placement. The panel hears that the student also behaved unprofessionally towards colleagues during two placements in their third year. The earlier incidents had resulted in the student being given a written warning and an opportunity to demonstrate an improvement in their behaviour. The fitness to practise panel decides that the student has not addressed concerns about their behaviour or shown any insight. The cumulative effect of the three separate incidents mean that the student is not fit to practise. The student is permanently excluded from the programme, but is given an exit award.

Outcomes and conditions imposed by fitness to practise panels

94. A finding that a student is not fit to practise is different from a finding of misconduct. A finding of misconduct under a disciplinary process may attract a range of penalties whereas a finding that a student is not fit to practise may result in the student being removed from their course, with little chance that they will be able to train elsewhere. Providers may sometimes suspend students for a period, or put in place a series of supportive improvement measures to give students an opportunity to put right the issues identified and demonstrate fitness to practise.
95. Where a provider puts in place conditions that the student needs to meet, those conditions should be proportionate, carefully explained to the student, and have a clear and demonstrable outcome. If the conditions are related to the student's health the provider should tell the student what evidence they will need, for example a satisfactory occupational health report, before they can resume their studies.
96. The decision as to what action to take when a student's fitness to practise is found to be impaired will usually require professional judgment. The panel should explain the reasons for the action or actions it has decided to take, especially in cases where the action has serious consequences and may prevent the student from starting or continuing with their intended career.
97. Before reaching a decision about what action it should take, it is good practice for the panel to consider each option, starting with the least serious. The intention is not to punish the student, but to act proportionately where there is a need to protect the public or preserve public confidence in the profession. Providers have a responsibility to explain what they have decided to do, why remedial action is not considered to be possible and how the decision relates to the relevant professional requirements.
98. The panel should also consider mitigating and aggravating factors, such as the level of insight the student has shown, evidence of good practice, personal circumstances and previous disciplinary concerns or patterns of behaviour. The student should be given the opportunity to put forward any mitigating factors before the panel decides what action it should take.
99. If the provider concludes that the student is currently unfit to practise, but that they may become fit to practise in the future, it should explain to the student what steps they may be able to take to resume their studies.

- 100.** If the provider concludes that the student is unfit to practise and should be terminated from the programme, the provider should consider whether the student can be given an exit award, or can be transferred to a different programme without professional registration.
- 101.** The provider may have to report to the professional body or regulator that the student has been withdrawn from their course because they are not fit to practise. The provider should explain this to the student and whether the outcome will also need to be disclosed by the student when applying for other regulated courses.
- 102.** In the final stages of professional training, standards of behaviour for students are often measured against what would be expected of a newly qualified professional. The NMC's online Fitness to Practise library provides some useful guidance about decision-making factors in fitness to practise cases for qualified professionals.

CASE STUDY 10

Outcome of fitness to practise process

Concerns are raised about the behaviour of a student on a Postgraduate Certificate in Education (PGCE). Staff at a school practice placement say that the student lost their temper and shouted at children at the school several times over the previous month. The student admits to this, but explains that they were behaving out of character because they were unwell.

The student provides evidence that they have recently encountered some difficult personal circumstances and are receiving treatment for anxiety and depression.

The panel decides that the student's fitness to practise is impaired and decides to suspend the student for one year, to enable them to receive treatment. This is because the mitigating circumstances do not excuse the behaviour but do indicate that the student may not be permanently unfit to practise as a teacher. The panel applies conditions to the student's return, including that they must get medical evidence showing they are well enough to resume their studies, and that the student will have a period of close monitoring while on placement to make sure that the behaviour is not repeated.

Concluding the formal stage

- 103.** The provider should write to the student setting out the outcome of the formal stage, giving a clear explanation of, and setting out the reasons for its decision and any conditions in straightforward language. This will help the student decide whether to appeal.

- 104.** The decision letter should also give information about:
- the student’s right to appeal;
 - the grounds on which they can do so;
 - the time limit for submitting an appeal;
 - the appropriate procedure; and
 - where and how to access support.
- 105.** If the student does not appeal within the time limit for doing so, the provider should close the matter and tell the student in writing. It is good practice to issue a Completion of Procedures Letter at this stage if the student asks for one, but the letter should explain that the student has not completed the provider’s internal processes. The OIA publishes guidance on issuing [Completion of Procedures Letters](#).

The appeal stage

- 106.** The student should be permitted to appeal against a fitness to practise decision, including the action the provider has decided to take. Providers can require a student (or their representative) to submit an appeal in writing, by email or online by completing the appropriate form. It is good practice to set out the grounds on which a student may appeal. Those grounds might include:
- that the procedures were not followed properly;
 - that the decision maker(s) reached an unreasonable decision;
 - that the student has new material evidence that they were unable, for valid reasons, to provide earlier in the process;
 - that there was bias or reasonable perception of bias during the procedure; or
 - that the action the provider has decided to take is disproportionate, or not permitted under the procedures.

- 107.** The provider may decide to reject an appeal without assembling an appeal panel if the student’s appeal submission does not fall within one of the grounds set out in its procedures, or if it is submitted out of time without a good reason. The person making a decision not to assemble an appeal panel should not have had any previous involvement in deciding the student’s fitness to practise (or, if relevant, in any related disciplinary proceedings). It is important that the decision maker understands the parameters of their role, and maintains the distinction between deciding whether the student may have grounds for an appeal, and establishing whether the appeal the student is making should be upheld. If the appeal is rejected without being put to an appeal panel, the provider should issue a Completion of Procedures Letter at this stage, explaining its decision.

- 108.** It is important to be clear about the remit of an appeal to ensure that students understand its purpose and scope. An appeal may be considered at a hearing or only on the basis of written submissions. The appeal stage may involve a review of the formal stage or a complete rehearing of the case. The procedures should say whether the appeal panel can overturn the outcome of the formal stage and substitute its own decision, or whether the matter needs to be referred back to the formal stage for reconsideration. The appeal panel should consist of members who have not been involved at a previous stage. Where the appeal panel is rehearing the case or may substitute its own decision, it should include at least one member of the relevant profession. The [Disciplinary procedures section](#) of the Good Practice Framework provides further good practice guidance for providers.
- 109.** Students should be given information about how to access support and advice during the appeal process.

Concluding the appeal stage

- 110.** If the appeal is not upheld, or is not permitted to proceed under the grounds of appeal, a Completion of Procedures Letter should be sent to the student within 28 days. This should include, or be accompanied by, an explanation of the decision reached and the reasons for it, in straightforward language. This will help the student decide whether to pursue the matter further.
- 111.** The decision should also advise the student about:
- their right to submit a complaint to the OIA for review;
 - the time limit for doing so; and
 - where and how to access advice and support, especially where the provider has set conditions that the student must meet before they can continue with their studies.
- 112.** The time limit for bringing a complaint to the OIA is 12 months from the date of the Completion of Procedures Letter. It is good practice to tell the student any particular reasons why they should bring the matter to the OIA promptly. For example, learning may become out of date, some professions may have a deadline for registration or placements may be difficult to find.
- 113.** Where an appeal is upheld, the provider should give the student a written outcome that explains what action the provider will take. It is good practice to issue a Completion of Procedures Letter if the student asks for one. If the outcome involves referring the case back to the formal stage for reconsideration, it is good practice to ensure that reconsideration is concluded as soon as possible and, where practical, within the 90-day timeframe.

Independent external review (OIA)

- 114.** Once the appeal stage has been completed, the student can ask the OIA, the independent ombuds service, to review their complaint about the outcome of the provider's fitness to practise process. The complaint needs to be submitted to the OIA within 12 months of the date of the Completion of Procedures Letter.

Useful resources and footnote document references

BACP (British Association for Counselling and Psychotherapy):

<https://www.bacp.co.uk/events-and-resources/ethics-and-standards/good-practice-in-action/>

Disability Rights advice sheet:

<https://www.disabilityrightsuk.org/making-complaint>

Equality Act 2010:

<https://www.legislation.gov.uk/ukpga/2010/15/contents>

General Pharmaceutical Council Guidance on student fitness to practise procedures in schools of pharmacy:

https://www.pharmacyregulation.org/sites/default/files/document/guidance_on_student_fitness_to_practise_procedures_in_schools_of_pharmacy_july_2018_.pdf

The GMC's Welcomed and valued: Supporting disabled learners in medical education and training:

<https://www.gmc-uk.org/education/standards-guidance-and-curricula/guidance/welcomed-and-valued/welcomed-and-valued-supporting-disabled-learners-in-medical-education-and-training>

GMC and MSC Professional behaviour and fitness to practise: guidance for medical schools and their students:

https://www.gmc-uk.org/-/media/documents/professional-behaviour-and-fitness-to-practise-0816_pdf-66085925.pdf

GMC's Supporting medical students with mental health conditions:

<https://www.gmc-uk.org/education/standards-guidance-and-curricula/guidance/supporting-medical-students-with-mental-health-conditions>

HCPC Health & Care Professional Council – Fitness to practise:

<https://www.hcpc-uk.org/concerns/what-we-investigate/fitness-to-practise/>

Information Commissioner's Office Guide to the GDPR:

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

NMC Aims and principles for fitness to practise Reference: FTP-1

This guidance shows the aims and principles of fitness to practise:

<https://www.nmc.org.uk/ftp-library/understanding-fitness-to-practise/using-fitness-to-practise/>

NMC's online Fitness to Practise Library:

<https://www.nmc.org.uk/ftp-library/>

OIA Good Practice Framework: Handling complaints and academic appeals

<https://www.oiahe.org.uk/resources-and-publications/good-practice-framework/handling-complaints-and-academic-appeals/>

OIA Good Practice Framework: Disciplinary procedures:

<https://www.oiahe.org.uk/media/2045/good-practice-framework-disciplinary-procedures-section.pdf>

OIA Good Practice Framework: Supporting disabled students:

<https://www.oiahe.org.uk/media/1039/oia-good-practice-framework-supporting-disabled-students.pdf>

OIA Completion of Procedures Letters Guidance Note:

<https://www.oiahe.org.uk/media/2246/oia-cop-guidance-note-jan-2019.pdf>

RCVS Code of Professional Conduct for Veterinary Surgeons:

<https://www.rcvs.org.uk/setting-standards/advice-and-guidance/code-of-professional-conduct-for-veterinary-surgeons/>

Social Work England:

<https://socialworkengland.org.uk/>

Social Care Wales:

<https://socialcare.wales>

The QAA UK Quality Code for Higher Education Chapter B2: Recruitment, Selection and Admissions to HE:

https://www.qaa.ac.uk/docs/qaa/quality-code/chapter-b2_-_recruitment_-_selection-and-admission-to-higher-education.pdf?sfvrsn=6900f781_8

Teachers' Standards:

<https://www.gov.uk/government/publications/teachers-standards>

UKCP:

<https://www.psychotherapy.org.uk/registers-standards/standards-guidance-and-policies/>

Universities UK and Pinsent Masons Guidance for Higher Education Institutions How to handle alleged student misconduct which may also constitute a criminal offence:

<http://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2016/guidance-for-higher-education-institutions.pdf>

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