

Professional Suitability Procedures

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University of Chester

Professional Suitability Procedure

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PART 1 - POLICY FRAMEWORK

PSP-I. Introduction

1. Under Article 3.2.7 of the University's Articles of Government, the Vice-Chancellor is responsible 'for the maintenance of student discipline and, within the rules and procedures provided for within these Articles, for suspension or expulsion of students on disciplinary grounds and for implementing decisions to expel students for academic reasons.' Article 10.2 of the Articles of Government states that 'the University Council, after consultation with the Senate and representatives of the students, shall make rules with respect to the students, including procedures for suspension and expulsion.' The Student Disciplinary and Professional Suitability Procedures fulfil these articles.
2. The University may take disciplinary measures against any student studying or registered with the University, if they fail to abide by the Student Code of Conduct or are found guilty of misconduct, as defined below. The Dean of Students may also take any appropriate action to seek to address complaints about student conduct, including advising complainants to contact their local environmental health officer regarding noise or the police regarding criminal offences, or advising students how to resolve matters amicably with neighbours.

PSP-II. Guidance Notes

3. Guidance Notes to accompany these procedures have been published. The Guidance Notes are designed to provide background, context and general guidance to the Professional Suitability and Student Disciplinary Procedures.
4. Much of the guidance is based upon findings, guidance and other relevant documents from relevant external agencies, including the Office of the Independent Adjudicator for Higher Education (OIA), Universities UK (UUK) and the Nursing and Midwifery Council (NMC). The notes are for guidance only, intended to assist Panel Members in their duties and to provide further explanation of both the Student Disciplinary (SDP) and Professional Suitability Procedures (PSP).

PSP-III. Student Code of Conduct and Definition of Misconduct

5. A student renders themselves subject to disciplinary action on the grounds of misconduct if they fail to abide by the Student Code of Conduct or improperly interferes, in the broadest sense, with the proper functioning or activities of the University, or with the lives of those who work or study at the University, or undertakes any action which may otherwise damage the University. Including:
 - 5.1. If it took place on University property, premises, or any other location, or if the student was involved in an activity associated with being a student of the University or was representing the University. This may include being present at any place by virtue of their University student status.
 - 5.2. In the case of a student registered on a programme leading to Professional qualification, if the conduct contravenes the Code of Practice for the relevant professional body, e.g. NMC, Health and Care Professions Council, Church of England, National College for Teaching and Leadership etc. Misconduct of this type shall be dealt with under this Procedure.

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- 5.2.i Codes of Practice published by professional bodies are designed to promote and safeguard appropriate standards of professional behaviour.
- 6. Examples of misconduct are included in the Guidance Notes. The examples listed are illustrative only and are neither comprehensive nor exhaustive. These examples may be added to or modified as necessary by the Vice-Chancellor.
- 7. The University shall take no account of misconduct prior to enrolling as a student, which has subsequently been revealed, or is still in the process of being dealt with by other authorities unless:
 - 7.1. the conduct is of such a serious kind and character, that it calls into question the fitness of the student to remain a member of the University, e.g. having regard to the safety and wellbeing of other students and staff;
 - 7.2. the conduct calls into question the fitness of the student to remain on a programme leading directly to a professional qualification, or to be admitted to and practice that profession; in which case the matter will be investigated under this Procedure; or
 - 7.3. the individual is included on the relevant Disclosure and Barring Service barring list.

PSP-IV. What is Professional Suitability?

- 8. All members of the relevant profession, including, in some cases, students and/or trainees, are required to register with the appropriate professional body/ies. Compliance with the guidance contained in these procedures will promote, but does not guarantee, registration.
- 9. A student who is professionally suitable for registration with the appropriate professional body will:
 - 9.1. uphold and comply at all times with the standards of behaviour set from time to time by the relevant professional body/ies whose functions include maintaining and protecting the health, well-being and confidence of the public and regulating those working in the profession, their employers and their education and training. These standards are expressed and prescribed in a variety of ways, including Codes of Conduct and legislative requirements, a list of which is held by the Dean of Academic Quality and Enhancement. These expectations include good character and good health;
 - 9.2. not engage in behaviour which is professionally unsuitable by reason of its failure to comply with the professional standards of behaviour or which constitutes misconduct due to failure to abide by the University's Student Code of Conduct.

PSP-V. What May Constitute Professional Unsuitability?

Unsuitability due to Misconduct

- 10. The University may assess the professional suitability of any student subject to these Procedures and apply them to sanction any failure to meet the requirements of professional suitability specified above.
- 11. Moreover, the need for those members of the student body to whom these Procedures apply to be professionally suitable and for them to behave accordingly extends beyond University premises, beyond engagement on a placement organised by the University and on any other University business. It extends to cover any misconduct inside and outside the University,

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including during a student's social life, if that misconduct raises doubt about a student's professional suitability, including, for example:

- 11.1. by jeopardizing the reputation of any part or member of the University, the profession and/or a professional body;
- 11.2. by improperly interfering, in the broadest sense, with the proper functioning or activities of the University, or with the lives of those who work or study at the University, or which may otherwise damage the University;
- 11.3. by raising questions about a student's suitability to remain a member of the University and/or to seek registration or continue to be registered with a professional body because they pose, or may in the future pose, a danger to members of the public;
- 11.4. by evidencing a student's inability to practise professionally due to misconduct, including issues relating to the (mis)use of alcohol or any other substance.

Unsuitability due to Health Matters

12. Subject to the University's duties under the Equality Act 2010 set out below, the following circumstances may also be dealt with as matters of professional suitability under these Procedures:
 - 12.1. if a student develops a health condition or disability while on the programme;
 - 12.2. if a student's existing health condition or disability changes while on the programme;
 - 12.3. where a student is unable to practise professionally due to physical and/or mental health problems, including for reasons relating to the (mis)use of alcohol or any other substance;
 - 12.4. If a student's behaviour is such that it has been found necessary for any reason to invoke any University procedure relating to behaviour, health, mental health or fitness to study, reside in, remain at or attend the University;
 - 12.5. excessive periods of unexplained absence, and/or recurring and frequent explained absences, from the programme or placement, or any absence from any part of the programme or placement which is significant in relation to the student's professional suitability.

PSP-VI. Misconduct involving the (Mis)use of Alcohol and/or any other Substances

13. The University is committed to providing a safe and supportive learning environment, including seeking to address the risks posed by alcohol or substance (mis)use. Students who are under the influence of alcohol or any other substances including New Psychoactive Substances (NPS) are more likely to be involved in an offence either as a victim or perpetrator. The University maintains a policy on alcohol and drug (mis)use which is available on the University intranet.
14. Whilst the University regards a person's dependency on alcohol or other substances as a health matter, this is distinct from the presence or influence of alcohol or other substances in misconduct, which will be regarded as an aggravating factor in the determination of the allegation and subsequent sanction, and no allowance will be made for it.

15. Engaging in any form of misconduct whilst under the influence of, or involving, alcohol and/or substance (mis)use may be treated as serious misconduct.

PSP-VII. Misconduct against another Person

16. As stated above the University seeks to provide a safe environment based on mutual respect for the rights and dignity of all individuals. Accordingly, misconduct against another person (including that made electronically or online etc.), whether verbal or physical, including acts of violence will not be tolerated.
17. Recognising particularly the impact that any form of sexual misconduct, violence or assault (including that made electronically or online etc.) may have upon those directly involved and on the University community, the University is committed to elimination and prevention of such behaviour.
18. Engaging in any form of sexual misconduct, violence or assault (including that made electronically or online etc.), should not normally receive a sanction at the Informal Phase other than to be referred to a Formal Panel.
19. Moreover, any person who engages in any form of sexual misconduct, violence or assault (including that made electronically or online etc.) will be liable to precautionary suspension and to the most severe sanction as detailed in the Formal Panel Phase if the allegations are upheld after consideration under the Formal Panel Phase

PSP-VIII. Diversity and Equality

20. The University will comply with its obligations under the Equality Act 2010 to avoid discrimination because of any of the following:
 - age
 - marriage & civil partnership
 - religion or belief
 - disability
 - pregnancy & maternity
 - sex
 - gender reassignment
 - race
 - sexual orientation
21. Under the Equality Act 2010, less favourable treatment of a disabled person may be justified if it is necessary in order to maintain one or more competence standards, i.e. an academic, medical or other standard applied by or on behalf of the University for the purpose of determining whether or not a person has a particular level of competence or ability. The University will keep its competence standards under review with a view to ensuring that they remain justifiable as competence standards and are both material to the circumstances of the case and substantial.

PSP-IX. Informing a Professional Body and/or Disclosure and Barring Service of Professional Unsuitability

22. The University may be required, and reserves the right at its discretion, to report to the relevant professional body/ies and/or the Disclosure and Barring Service (DBS) the conduct of any student whose professional suitability has been subject to these Procedures.
23. Regulated Activity Providers (as defined in the Safeguarding Vulnerable Groups Act 2006) and the University have a statutory duty to refer any person who has engaged in relevant conduct and a duty to provide information to the Independent Barring Board upon request.

24. The University must refer information to the DBS when they have dismissed an individual, or an individual resigns, because they harmed, or may harm, a child or vulnerable adult; or they think the DBS may consider it appropriate to bar the individual.
25. Further information about the Safeguarding Vulnerable Groups Act 2006 and the legislative framework for a vetting and barring scheme for people who work with children and vulnerable adults is contained in the guidance notes below.

PSP-X. Delegation by, and Definition of Named Post Holders and Nominated Staff

Post-Holders

26. The Vice-Chancellor, Deputy-Vice-Chancellor, Pro-Vice-Chancellor or other named post holders, including the Dean of Students, may delegate powers and responsibilities, as identified under these Rules and Procedures, to a designated alternate (Nominee) either generally or in respect of a particular case or in relation to any area of their responsibility under this Procedure unless otherwise stated.
 - 26.1. Further to the above throughout these Rules and Procedures the expression “Vice-Chancellor” may be interpreted as meaning the Vice-Chancellor of the University, Deputy-Vice-Chancellor of the University, a Pro-Vice-Chancellor of the University or their nominee; unless otherwise stated.

Nominated Staff

27. For the purposes of the Formal Panel Phase and Review Phase the term *nominated staff* shall be regarded as any of the following University staff:
 - An Executive Dean or Dean
 - An Executive Director or Director
 - A Vice Dean, Associate Dean or Deputy Dean
 - A Vice Director, Associate Director or Deputy Director
 - A Deputy Provost
 - A Head of Department
 - A member of staff equivalent or senior to any of the above.
28. The Dean of Students and senior staff from the same Faculty/Department as an individual student against whom an allegation has been made are excluded from chairing the relevant Panel.

PSP-XI. Conduct of Interviews and Hearings

29. All interviews and hearings under this Policy will be conducted fairly and impartially by the Interviewer and/or Chair of the hearing.
30. The Interviewer or Chair of the hearing will normally conduct the hearing according to the suggested format specified in the Guidance Notes.
31. The Interviewer or the Chair of the hearing may exclude from the proceedings any person (including the student or the student's 'Companion') who behaves unreasonably or who disregards any reasonable instructions given with regard to the interview or hearing.

PSP-XII. Student Companions/Staff Colleagues at Interviews, Meetings and Hearings

Student Companions

32. Any student who has been requested to attend for either an interview, meeting and/or at a hearing, may be accompanied by one 'Companion' who shall be a fellow student, Students' Union representative or member of staff at the University but may not be a fellow student who has had prior involvement in the case or who is likely to be or has been interviewed as part of either the Dean of Students' preliminary investigation or any hearings held under the Formal or Review phase.
 - 32.1. Except in cases where a reasonable adjustment under the Equality Act is required, family members, partners or representatives from any other body will not be permitted to act as a 'Companion'.
 - 32.2. An individual student's Companion will not be permitted to answer questions on behalf of the student.
33. The name and status of the Companion should be notified to the Dean of Students in advance of any interview and no later than two days before the date of any hearing held under the formal or review phase.

Staff Colleagues

34. Except in the case of a student, any other person, including university staff or external persons, who has been requested to attend for an interview, meeting and/or a hearing by the Dean of Students, may be accompanied by one 'Colleague' as they believe necessary.
 - 34.1. A Colleague would normally be a workplace colleague or similar but may not be an individual who has had any prior involvement in the case or who is likely to be or has been interviewed as part of either the Dean of Students' preliminary investigation or any hearings held under the Formal or Review phase.
 - 34.2. A Colleague is support for a witness and may not answer any questions on behalf of the witness or provide any input into the relevant meeting or hearing.
35. The name and status of the Colleague should be notified to the Dean of Students in advance of any interview and no later than two days before the date of any hearing held under the formal or review phase.

PSP-XIII. Timeliness

36. The University will endeavour to conclude the Formal Panel Phase, following the preliminary investigation and decision to refer the matter to a formal panel, within ninety (90) calendar days.

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- 36.1. Notwithstanding the above, it may be necessary for the University to alter or extend any timescale or deadline detailed in the procedure. Where this is the case the Dean of Students, the Invoking Officer or Chair of the relevant panel will, on behalf of the University, inform and explain the circumstances requiring the alteration to the student concerned.
- 36.2. Where cases may involve third parties and it is necessary for the University to either obtain information from or to await an action by the third party the University may need to await the completion of such action before either proceeding or continuing with the procedure. Delay in conclusion of the procedure may follow as a result.
37. The University will consider any reasonable request to alter the relevant timescale or extend a relevant deadline as necessary made, in good faith, by an individual student against whom an allegation has been made which is needed due to factors beyond their control.
 - 37.1. The University reserves the right not to comply with any request made by an individual student (or their 'Companion') to alter or amend any aspect of the procedure (including timescales or deadlines) unless the Dean of Students, the Invoking Officer or Chair of the relevant panel reasonably considers it necessary to do so.
38. The University may suspend any stage of the operation of this procedure where the Dean of Students, the Invoking Officer or the Chair of the relevant panel reasonably believes that matters raised by an individual may have an impact upon or affect the hearing or have a significant bearing on the outcome of the hearing until the matters raised are satisfactorily investigated under the relevant University procedure and the relevant procedure exhausted as necessary.
39. Where the Dean of Students, the Invoking Officer or Chair of the relevant panel reasonably considers that any request made by a student (or their Companion) to alter or amend any aspect of the procedure (including timescales or deadlines) or to seek a suspension of the operation of the procedure is vexatious, frivolous or intended to frustrate any aspect of the procedure including the investigation, panel hearing or any other function of the University, the request shall be refused and noted for consideration as an aggravating factor by the relevant panel at the hearing.

PSP-XIV. Interaction with Other Policies and Procedures

40. This procedure extends to include concerns resulting from issues that have arisen due to changes or developments around an individual student's conduct and/or health, including mental health, wellbeing and fitness to study, reside or remain at the University.
41. Action which has been or may be taken under any other relevant university procedure and which has resulted or may result in a student being referred, investigated, precautionarily suspended or excluded, will not preclude further action under this procedure but may form part of the Referral and Investigation Phase of this procedure.
 - 41.1. For example, necessary and expedient action may be taken under the Student Mental Health Policy or Fitness to Study procedures to precautionarily suspend a student until such time as a Formal Professional Suitability panel may be arranged and held.

PSP-XV. Annual Monitoring

42. An annual report detailing case load will be submitted by the Dean of Students to the University Secretary, for submission to the Senior Management Team, no later than 31st December following the academic year ended on the preceding 31st July.

42.1. The anonymised report shall detail data relating to Equality monitoring linked to such other matters including, but not limited to, the number of cases according to the following:

- the type of misconduct
- the location/campus on which the misconduct took place
- the number of each sanction or measure imposed
- the phase at which the case was concluded
- any other material matters.

PSP-XVI. Confidentiality

43. Individuals' confidentiality will be maintained as far as is reasonably practicable. Any records should be confidential and be kept in accordance with the requirements of the Disciplinary Procedure, General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

44. Any student(s) who is subject to an allegation/referral may receive copies of any meeting records upon request, although, in certain circumstances information may be withheld, for example to protect a witness, or where otherwise personal data relating to a third party would be disclosed.

45. All letters and correspondence in relation to any student procedure will be handled and stored in accordance with the Data Protection Act 2018 by those involved in the procedure.

46. Subject to the requirements of confidentiality, the University will maintain and report appropriate statistics on the use of this procedure in order to ensure its effectiveness and incidence in relation to particular equality groups.

PART 2 - PROCEDURE FOR DEALING WITH PROFESSIONAL UNSUITABILITY

PSP-XVII. Referral and Investigation Phase

47. Allegations, referrals or complaints regarding student professional suitability (defined as 'referral') may be brought to the University's attention by any member of staff or student of the University. In addition, a complaint may be made by bodies or individuals external to the University including professional bodies, the Disclosure and Barring Service, placement providers, clients or service users. All such referrals should be brought to the attention of either the Dean of Faculty who will refer the matter to the Dean of Students or directly to the Dean of Students who will inform the Dean of Faculty of the referral.
48. On receipt of a referral, the Dean of Students should not form any immediate judgement, other than to determine whether the matter is an issue relating to conduct or health. Having made such a determination, the Dean of Students should instigate a preliminary investigation and may request such assistance in undertaking the investigation as deemed necessary or relevant to the nature of the referral.
49. The preliminary investigation will normally be undertaken by the Dean of Students, advised by an appropriate representative from the relevant Faculty who will be able to give the professional context in which the referral has been made.
50. The Dean of Students' investigation will normally involve an interview with the complainant, and any other person who can provide material facts, in order to determine the next course of action.
 - 50.1. An individual whom the Dean of Students determines should be interviewed or called to a meeting as part of the preliminary investigation will be entitled to be accompanied by a relevant Companion or Colleague, as defined above, at the interview or meeting.
51. A student who is the subject of referral may be temporarily removed from any professional placement as described in '**Temporary Removal from Studies in Placement**' below.
52. Where the issue of suitability relates either to health, including the (mis)use of alcohol or any other substances, or a change in an existing health condition (hereafter referred to as a Health Condition) or the emergence of, or change in, a disability, the Dean of Students and/or the Dean of Faculty shall require the individual student to present for examination, including appropriate specimen test, and written assessment by the University's Occupational Health Unit and/or any other appropriate relevant medical, clinical or psychiatric professional. The student shall be entitled to a copy of this assessment.
 - 52.1. Where either the Dean of Students or a member of the relevant faculty reasonably considers that the issue of suitability relates to the mental health of the student, consideration should be given to the implementation of the Student Mental Health policy.
53. Once the detailed nature of the referral has been determined by investigation, the Dean of Students, in consultation with an appropriate member of the Faculty, may attempt to resolve the issue by informal means, if possible and appropriate; including the provision of reasonable adjustments as required by the Equality Act for matters relating to disability.

- 53.1. Where the Dean of Students considers, after receiving advice from the Faculty Representative, that the health, safety, vital interests or wellbeing of children, service users or patients has been compromised or that any of those persons may be placed at risk by the student in a placement environment, the matter must be dealt with under the Formal Phase of the procedure.
54. The Dean of Students may, in consultation with an appropriate member of the Faculty, and if necessary, after taking external professional advice including from the relevant professional body, rule that the referral is not a matter of professional suitability, in which case it should not be the subject of further action under these Procedures. This will not preclude further action being instigated under a different procedure, where appropriate.

PSP-XVIII. Informal Phase

55. If the preliminary investigation indicates that a student's conduct constitutes professionally unsuitable behaviour or the student admits such misconduct, the Dean of Students, in consultation with an appropriate member of the Faculty, may implement one or more of the measures listed below.
- 55.1. The following list is not exhaustive and it may be the case in any particular faculty or programme certain action listed may not at any time be an appropriate measure if a referral is upheld:
- a A warning and/or advice about future conduct which may include entering into a behavioural contract and/ or participation in 'restorative justice' and/or an undertaking as to their future conduct; and/or
 - b A fine of up to £750; and/or
 - c A requirement that the student pay for any damage to property, they may have caused, or recompense the University, fellow student or third party for any loss it may have suffered.
 - d If none of the above is appropriate the issue may be referred to a formal Professional Suitability Panel.
56. If the preliminary investigation indicates that the nature of the referral is due to a Health Condition or disability of the student, then the appropriate measure from the following list may be implemented in consultation and discussion with the student.
- 56.1.i That any adjustment appropriately assessed as reasonable under the Equality Act be made in consultation with student and kept under review and/or
 - 56.1.ii a requirement that the student seek appropriate medical, or other necessary, assistance to resolve the issues.
57. Where the Health Condition or emergence of a disability is so severe as to have an impact upon the student's continued studies the matter must be referred to the Formal Panel Phase.
58. The measures detailed in this Informal Phase may be used for less serious or 'general' breaches of the disciplinary rules and code of conduct or 'general' suitability issues where referral to the Formal Panel Phase is deemed unnecessary.
- 58.1. However, where a breach may reasonably be regarded as a 'serious' breach or is any form of 'Misconduct against People' including misconduct where the health, safety, vital interests or wellbeing of children, service users or patients has been

compromised or placed at risk, or which involve the (mis)use of Misconduct involving the (Mis)use of Alcohol and/or any other Substances a referral to the Formal Panel Phase should normally be made.

59. The outcome, including the sanction and the reasons for imposing the sanction under the Informal Phase, will be confirmed to the student's University email address.
60. Students who fail to undertake any imposed measures or who wish to request a review against the imposition of the measure(s), as outlined above, will be referred to the Formal Panel Phase of the suitability procedure and a decision (which may be more serious than that given at the informal Panel Phase) at that phase will be final.
 - 60.1. Where a student wishes to request a Review against the imposition of measures at this phase, the student must request the review in writing to the Dean of Students within five working days of being informed of imposed measures by the Dean of Students.
 - 60.2. Upon receipt of such a request the Dean of Students will confirm receipt of the request in writing and proceed to the Formal Panel Phase of the procedure.

PSP-XIX. Formal Panel Phase

61. If, following preliminary investigation by the Dean of Students, the referral cannot be resolved by informal means or it is deemed inappropriate to be dealt with by informal means, the Dean of Students, may nominate an Invoking Officer and in consultation with an appropriate member of the Faculty, refer the matter to be dealt with under the Formal Panel Phase.
62. The Invoking Officer will be assisted at the Panel by an appropriate professional representative from the relevant Faculty who will be able to give evidence about the referral and comment upon the professional context in which the referral is made.
63. The representative from the relevant Faculty may be the same person who had been involved in the informal phase as identified in the **Informal Phase** above. Where the issue of suitability relates to a Health Condition or disability, the Panel will also consider the written assessment by the University's Occupational Health Unit and/or any other appropriate relevant medical, clinical or psychiatric professional as deemed necessary.

Membership of the Panel

64. Under the Formal Panel Phase, unless the case relates to a student nurse or midwife, the referral will be considered by a formal Professional Suitability Panel consisting of four persons, namely:
 - the Chair, selected from the list of *Nominated Staff*, as defined above (excluding the Dean of Students and senior staff from the same Faculty/Department as the student concerned) and who in the event of an equality of votes on a decision shall have a casting vote which may or may not be the same as their original vote;
 - one senior member of an appropriate professional partnership organisation who is either a member or registrant of, or lay adviser to the same profession as the student and whose membership of the panel has been nominated or agreed by the relevant Faculty;

- one member of University staff who **must** be from a different professional programme from the student, but may be from the same Faculty or professional register; and
- one member or designated officer of the student body.

Membership of the Panel - Student Nurse or Midwife

64.1. In the case of a student nurse or midwife the referral will be considered by a formal Professional Suitability Panel consisting of five persons, namely:

- the Chair, selected from the list of Nominated Staff, as defined above (excluding the Dean of Students and senior staff from the same Faculty/Department as the student concerned);
- one senior member of an appropriate professional partnership organisation who in the case of a student midwife must be a supervisor of midwives and in the case of a student nurse must be from the same part of the register and field of practice as the student eg adult, children's, mental health or learning disability nursing;
- one member of University staff who must be from the same professional register e.g. a Nurse or Midwife, but not necessarily the same field of practice as the student;
- one member of University staff from a different professional programme and who must not be a member of the same professional register as the student; and
- one member or designated officer of the student body.

Membership of the Panel - Victim of Misconduct

64.2. If the alleged misconduct is considered by the Dean of Students to involve another student as a victim of the misconduct, the following restrictions regarding the membership of the panel shall apply in addition to those specified above:

64.2.i The Chair may not be from the same Faculty as the victim; and

64.2.ii The member of the University Staff may not be from the same programme or department(s) of study as the victim; other than in the case of a nurse or midwife.

Membership of the Panel – General Provisions

- 64.3. No person who has been involved in the Dean of Students' preliminary investigation may be a member of the Professional Suitability Panel.
- 64.4. Neither the Invoking Officer nor Representative from the Faculty shall be considered as members of the Panel.
- 64.5. The name and status of each member of the Panel shall be recorded in the minutes of the hearing.

Conduct of Panel Hearing

65. The Chair of the Professional Suitability Panel will normally conduct the hearing according to the suggested format specified in the Guidance Notes. The Dean of Students will ensure that all the necessary administrative arrangements are made.

- 65.1. Neither the Invoking Officer nor the Faculty representative shall be present prior to the commencement of the hearing, during any initial private meeting of the panel and during any deliberations of the Panel except where the Panel seek clarification of matters of fact, in which case all parties shall attend.

Student Entitlements

66. A student against whom a referral has been made shall be entitled to:
- 66.1.i be made fully aware of these Procedures and of the substance of the referral;
 - 66.1.ii be provided at least five (5) working days before any hearing with a copy of the written evidence to be presented at the hearing;
 - 66.1.iii submit written evidence to the Professional Suitability Panel, normally at least two (2) working days before the hearing;
 - 66.1.iv be present throughout the hearing and to see and hear all the evidence;
 - 66.1.v call witnesses to give evidence on their behalf at the hearing and (subject to the conditions in the '**Special Arrangements**') to question any other witnesses reasonably and through the Chair of the Panel; and
 - 66.1.vi be accompanied or assisted at the hearing by a Companion as defined above.
67. If the student does not appear at the date and time scheduled for the hearing the Professional Suitability Panel may consider the validity of any reasons advanced for non-attendance and:
- 67.1.i if members so decide, adjourn the hearing to a later date and/or time; or
 - 67.1.ii if no, or no valid, reason is advanced for non-attendance, proceed in the student's absence, regarding them (subject to any written account or representations) as having admitted none of the circumstances of the referral.
68. If the student's behaviour has previously been the subject of either the Student Disciplinary Procedure or these Procedures and was found to constitute misconduct or professionally unsuitable behaviour, either at the informal or formal phases, the Chair of the Professional Suitability Panel will be supplied with the relevant information, in a sealed envelope. This envelope will not be opened, nor will any of the information contained in the envelope be disclosed to any member of the Panel, until the members of the Panel have considered the evidence before them and reached a decision. If the case is upheld, the members of the Professional Suitability Panel may then have access to the information in the sealed envelope which may be taken into account in determining what appropriate outcome should be implemented.
- 68.1. The Invoking Officer and witnesses should not make reference to previous allegations or findings of misconduct or unsuitable behaviour during the Panel hearing; any references to previous allegations or findings should be removed, so far as practicable, from evidence including transcripts of interviews.

Special Arrangements

69. The Dean of Students and/or the nominated Chair may take such steps as are reasonable to mitigate any distress which they consider that any aspect of the panel hearing may cause to any person involved, including witnesses.

- 69.1. Reasonable steps may include, but are not limited to, the provision of dividing screens, questions being submitted in writing either prior to or at the hearing, or the use of video link.

Determination of the Panel

70. The Panel may either dismiss the case, or uphold the referral. If the referral is upheld, the Panel may decide that no further action is necessary; or, following consideration of the Guidance Notes, that one or more of the following measures be implemented.

Appropriate Measures for Unsuitability due to Misconduct

- 70.1. The following list is not exhaustive and it may be the case in any particular faculty or programme that certain action listed may not at any time be an appropriate measure if a referral is upheld:
- a Expulsion of the student who shall not be entitled to apply or enrol for any other University of Chester Programme.
If required by the professional body, a report to the relevant professional body, and/or the Disclosure and Barring Service; the panel shall refer the matter as detailed below.
 - b Termination of professional education and training.
If required by the professional body, a report to the relevant professional body, and/or the Disclosure and Barring Service; the panel shall refer the matter as detailed below.
 - c Formal suspension of professional education and training or from a placement for a specified period not exceeding one academic year.
If required by the professional body, a report to the relevant professional body, and/or the Disclosure and Barring Service; the panel shall refer the matter as detailed below.
 - d Exclusion of the student by selective restriction to certain parts of the University for a specified period.
 - e Restriction on the holding of any office or committee membership in the University, the exact details to be specified.
 - f A recommendation to the Vice-Chancellor or Domestic Bursar to terminate the student's accommodation contract.
 - g A warning and/or advice about future conduct which may include entering into a behavioural contract and/or participation in 'restorative justice'
 - h The imposition of a fine up to a maximum of £1500, this figure to reflect the seriousness of the allegations.
 - i Any other measure to be implemented as deemed appropriate by the Panel.
 - j That no further action is necessary.
- 70.2. Where in the opinion of the Chair of the Panel the recommended measure may be regarded as an academic penalty the recommended measure will be forwarded to

the Chair of the relevant Assessment Board who will ratify the recommended measure on behalf of the Assessment Board.

70.2.i In the recommendation of a measure, which may be regarded as an academic measure, Panels may not alter or amend the grades, marks or status of any module not related to the practice or placement in question.

70.2.ii The above measures resulting in expulsion, termination, formal suspension or exclusion are not to be regarded as an academic penalty for these purposes.

71. Any person who engages in any form of violence, assault, misconduct or sexual misconduct against another person (including by electronic means or online etc.) or is found guilty of a criminal offence will be liable to the most severe sanction of expulsion or termination of studies if the allegations are upheld by the Panel. These sanctions may also be appropriate to any other misconduct.

71.1. The Panel may also consider whether they believe there is a need to refer the individual to either a relevant PRSB or the DBS.

Finding of Misconduct – Potential Refer to DBS and/or PRSB

72. Where, upon conclusion of the Panel, the measures of Expulsion, Termination or Formal suspension are implemented and the Panel believe that grounds exist to refer the case to the relevant professional body and the professional body require that such reports are made, the Panel's decision, case notes, evidence including witness statements and minutes of the Panel shall be passed to the Director of Legal Services for consideration as to whether Part PSP-XXIII below should be implemented.

73. Where, upon conclusion of the Panel, the measures of Expulsion, Termination or Formal suspension are implemented and the Panel believe that grounds exist to refer the case to the Disclosure and Barring Service (formerly Independent Safeguarding Authority) for consideration as to whether the individual should be included on the relevant Barring List the Panel's decision, case notes, evidence including witness statements and minutes of the Panel shall be passed to the Director of Legal Services for consideration as to whether the section regarding Referral to the Disclosure and Barring Service below should be implemented.

Appropriate Measures for a Health Condition

74. If the Panel considers on the basis of the preliminary investigation and any other relevant evidence that the nature of the referral is due to a Health Condition or disability of the student; then the Panel may also implement an appropriate measure from the following, non-exhaustive, list in consultation and discussion with the student:

- k That the student seeks appropriate medical and/or other necessary assistance or support.
- l Continuation of studies on terms that the student undertakes special supervision or study or a recommended programme of action.
- m Continuation of studies following a transfer of studies on to a more appropriate programme of study.
- n That any necessary reasonable adjustment required by the Equality Act be made in consultation with the student and kept under review.
- o Any other measure to be implemented as deemed appropriate by the Panel.
- p That no further action is necessary.

75. Where the nature of the referral is due to a Health Condition or disability of the student and it is the view of the Panel that further intervention is required then the appropriate measure from the above list may be implemented in consultation and discussion with the student.
- 75.1. Where the Health Condition or emergence of a disability is so severe as to have an impact upon the student's continued studies on their programme the panel should consider whether alternative study is appropriate or possible as specified in **'Admission to an Alternative Programme'**.
76. The Panel, being cognisant of the Guidance Notes, will communicate its decision in writing within five (5) working days of the Hearing, detailing the outcome including reasons for the Panel's decision and for the sanction imposed.

Issuing a Completion of Procedures Letter – Formal Phase

77. Where a student does not exercise their right to review, in effect timing out the procedure, the matter will be considered completed with no further recourse through the University procedure by the student(s). Where the procedure is completed in this manner a Completion of Procedures Letter will not normally be sent to the student(s) unless requested.
- 77.1. Where a student so requests, a Completion of Procedure Letter will be issued by the Dean of Students, and it will indicate that the student was out of time under the procedure.

PSP-XX. Review Phase

Grounds for Requesting a Review

78. A student may request a review against the decision of the Panel. A review shall not take the form of a re-hearing of the case and may only be made on one or more of the grounds listed below.
- 78.1. The emergence of significant additional evidence not available at the time of the panel hearing which could reasonably have affected the Panel's decision if disclosed at the panel hearing, including
- 78.1.i That the student has new material evidence that they were unable, for valid reasons, to provide earlier in the process.
- 78.1.ii The emergence of evidence to show that there has been maladministration in the conduct of the proceedings, including
- 78.1.iii That the procedures were not followed properly;
- 78.1.iv That there was bias or a reasonable perception of bias during the procedure;
- 78.1.v That the decision maker(s) reached an unreasonable decision.
- 78.2. The emergence of evidence which demonstrates that the measures implemented are too severe, disproportionate or not permitted under the procedures.
79. The student must give notice of intention to request a review in writing to the Dean of Students within ten (10) working days of being informed of the decision of the Panel, stating clearly which of the above grounds will form the basis for the review.
80. Within a further five (5) working days the student must submit a written statement of the case for the review to the Dean of Students, setting out a full response to the Panel's decision, together with all additional evidence relied upon to establish the grounds for review.

- 80.1. A request for a review or the presentation of further documents and evidence received after this time with cause shown for its late submission may, in exceptional circumstances, be granted at the discretion of the Chair of the Professional Suitability Review Committee.
81. Any student who has failed to avail themselves of the opportunity of attending a Professional Suitability Panel hearing may be entitled to review, only by special permission of the Chair of the Professional Suitability Review Committee.
82. The Dean of Students will nominate a Chair of the Review Committee who shall be an individual selected from the list of '**Nominated Staff**', or a Provost, a Pro-Vice-Chancellor or the Deputy Vice-Chancellor.

Initial Consideration of Grounds

83. The nominated Chair of the Review Committee will, based upon the documents received, consider whether or not the student has identified possible grounds for a Review and, if possible grounds for a Review have been identified, that a Review Committee should further consider the case.
 - 83.1. The sole arbiter of the validity of grounds for Review is the nominated Chair of the Review Committee; who may not delegate this responsibility.
 - 83.2. The Review Committee shall be constructed as, but shall be no larger than a, Hearing Panel as detailed in '**Membership of the Panel**'.

Review Committee Meeting

84. The Review Committee will meet as soon as practicably possible and normally within thirty (30) working days following receipt of the full submission from the student.
85. The Review Committee may seek to deal with the case on the basis of documentary evidence and may, at its discretion, call a meeting to which the student is invited to attend to present their Review in person. If the student is invited to attend in person, they may be accompanied by a Companion as defined above. The name of the companion must be notified in advance to the Chair of the Review Committee no later than two days before the date of the meeting.
 - 85.1. Where a student who has been invited to present their review in person does not appear at the date and time scheduled for the hearing the Review Committee will proceed to deal with case on the basis of documentary evidence.
86. The Review Committee may invite to attend and question any person who in the reasonable opinion of the Chair of the Review Committee may be able to assist.
87. The Review Committee may:
 - 87.1.i find that the grounds for a Review have not been established and that the original decision of the Suitability Panel should stand; or
 - 87.1.ii find that the grounds for a Review have been established, in which case the Review Committee will proceed to review the case.
88. If the Review Committee finds that the grounds for a Review have been established and proceeds to review the case, the outcomes of the Review may be to confirm, quash or vary the original findings of the Suitability Panel and/or any penalty imposed by the Suitability Panel. The Committee may also implement any sanction as specified in the Informal or Formal Phase should the Committee believe it to be necessary.

89. The outcome of the review shall be final and there shall be no further opportunity to make representations to the University Council.

Issuing a Completion of Procedures Letter – Review Phase

90. The Committee being cognisant of the Guidance Notes, will communicate its decision in writing within ten (10) working days of the Committee Meeting, in the form of a Completion of Procedures Letter detailing the outcome including reasons for the Committee's decision. .

PSP-XXI. Office of the Independent Adjudicator for Higher Education

91. At the point where the professional suitability procedure has been exhausted, a Completion of Procedures letter will be issued in line with guidance published by the Office of the Independent Adjudicator for Higher Education (OIA). This affords a student the right to take the case to the OIA. If the student wishes to take their complaint to the OIA, they must send an OIA Complaint Form within twelve months of the date of the Completion of Procedures letter. An OIA Complaint Form can be downloaded from the OIA website www.oiahe.org.uk.
92. Where a student has failed to comply with the University's time limits for review, the student has in effect exhausted the internal procedure and no further recourse is available to the student(s). However, in these circumstances there is no need to issue a Completion of Procedures Letter automatically, as the student would be able to bypass the final phase of the University procedure and go directly to the Adjudicator.
93. However, if a student so requests, a Completion of Procedures Letter will be issued by the Dean of Students which will indicate that the individual student was out of time under the procedure and therefore excluded from submitting a review.

PSP-XXII. Conduct which may also be a Criminal Offence, 'relevant conduct' or subject to Professional Body Investigation

94. Where behaviour on the part of a student is not only professionally unsuitable under these Procedures, but may also constitute a criminal offence or require investigation by a relevant professional body or the Disclosure and Barring Service in order to consider ongoing registration, particular care will be taken to ensure that no comments are made to the media.
95. The following procedures apply where the alleged professional suitability may also constitute a criminal offence or would require investigation by, or referral to, a relevant professional body or the Disclosure and Barring Service in order to consider on-going registration.
96. If an allegation of misconduct has been reported to the police, the Vice-Chancellor may decide that no action (other than Temporary Removal from a Placement, Precautionary Suspension and/or Precautionary Exclusion from the University Pending a Hearing) should be taken under these procedures until a prosecution has been completed or a decision not to prosecute has been taken.
97. If a decision not to prosecute is subsequently taken or following an investigation the relevant professional body, or Disclosure and Barring Service determines to take no further action, the Vice-Chancellor shall decide whether disciplinary action should continue or be initiated under these Procedures.
98. If a decision to prosecute is taken and a conviction results or a relevant professional body or Disclosure and Barring Service imposes a disciplinary order including removal from a register

or barring decision, the Court's or professional body's penalty may be taken into consideration in determining any action under these Procedures.

99. Under the Safeguarding Vulnerable Groups Act 2006 it is a criminal offence to allow a barred individual to work with the relevant vulnerable group. Any person who is barred by the Disclosure and Barring Service will therefore be immediately withdrawn from the programme of study and placements as necessary, without affecting any other action which may be taken under these Procedures.
100. If the outcome of a criminal prosecution is acquittal, or following an investigation or hearing the relevant professional body or Disclosure and Barring Service determines to take no further action, the Vice-Chancellor shall decide whether or not professional suitability action should continue or be taken under these Procedures.

PSP-XXIII. Referral to the Disclosure and Barring Service

101. Where upon conclusion of the Panel, the measures of Expulsion, Termination or Formal suspension are implemented and the Panel believe that grounds exist to refer the case to the Disclosure and Barring Service for consideration as to whether the individual should be included on the relevant Barring List the Panel's decision, case notes and evidence, including witness statements and minutes of the Panel, shall be passed to the Director of Legal Services for consideration.
102. Upon receipt of the Panel's decision and associated evidence the Director of Legal Services, in consultation with any persons deemed necessary including the Vice-Chancellor, shall determine if the statutory duty to refer under the Safeguarding Vulnerable Groups Act 2006, and associated legislation, exists.
103. If in the opinion of the Director of Legal Services the statutory duty exists then the Director of Legal Services will refer the individual and case to the Disclosure and Barring Service.
104. If in the opinion of the Director of Legal Services the statutory duty does not exist but the case may be of interest to the Disclosure and Barring Service then the Director of Legal Services may refer the individual and case to the Disclosure and Barring Service.
105. If in the opinion of the Director of Legal Services the statutory duty does not exist and there is no reason to refer the case to the Disclosure and Barring Service then the Director of Legal Services may not refer the individual and case to the Disclosure and Barring Service, but will reserve the right to do so in the future if the need arises.

PSP-XXIV. Temporary Removal from a Placement, Precautionary Suspension and/or Precautionary Exclusion from the University Pending a Hearing

106. Removal, suspension, or exclusion pending a hearing must not be used, or regarded as a penalty.
 - 106.1. The use of the provision to temporarily remove a student from placement, or to suspend, or exclude from the University is designed to protect individual members of the University, the University community in general or members of the public with whom the student may have contact as part of their training or studies.
 - 106.2. The provision may also be used to protect the individual student(s) who is the subject of a referral.

Temporary Removal from Studies in Placement

107. A student who is undertaking a placement as part of their programme and becomes the subject of a referral may be temporarily removed from the placement by an appropriate member of the programme team. Any such removal will be in line with the relevant placement arrangements within the Faculty, pending a professional suitability hearing.
- 107.1. The power to temporarily remove a student from a placement may be used where an authorised member of the relevant programme team is of the opinion that there is a reasonable need to do so or there may be a risk to the welfare of the public.
- 107.2. Temporary removal from a placement does not preclude any further suspension or exclusion from other academic activities or from the University as necessary.
108. Students subject to a removal will be informed of the decision and the reasons for the decision in writing within five (5) working days of the removal taking place.
109. A decision to temporarily remove a student from placement, shall be subject to review, in accordance with faculty requirements or where new information becomes available or at the request of the student.

Suspension/Exclusion from academic activities or from the University

110. The power to suspend or exclude shall be used only where the Vice-Chancellor is of the opinion that it is urgent and necessary to take such action.
111. Students subject to a removal, suspension or exclusion will be informed of the decision and the reasons for the decision in writing within five (5) working days of the suspension or exclusion taking place.
112. A student who is the subject of a referral or against whom a criminal charge is pending, or who is the subject of police or other professional body investigation may be suspended, or excluded from the University and any placements by the Vice-Chancellor or Deputy-Vice-Chancellor pending the professional suitability hearing or the outcome of the police or professional body investigation.
113. A student who is the subject of a referral may be suspended from the University as a precautionary measure following a determination under the University's Mental Health Policy.
114. When the Vice-Chancellor has delegated power to a nominee (other than the Deputy-Vice-Chancellor) a full report shall be made to the Vice-Chancellor of any suspension or exclusion by the nominee.
115. Suspension may be a total prohibition of attendance at, and access to University premises, and of participation in University activities or subject to such conditions as the Vice-Chancellor may impose.
116. Exclusion involves selective restriction on attendance at, or access to, the University premises or prohibition of exercising the functions, or duties, of any office or committee membership in the University, or the Students' Union, the exact details to be specified in writing.
117. Suspension should be used only where there are good grounds for deeming exclusion to be inadequate.
118. An order of suspension, or exclusion, may include a requirement that the student should have no contact of any kind with a named person, or persons.

Exclusion or Suspension during Field Visits

119. The Vice-Chancellor's power of exclusion shall extend to fieldwork or field course or other organised activity away from University premises and the leader of such organised activity shall have the delegated authority to exclude any student(s). Such an exclusion decision may be in respect of a particular activity or associated residential accommodation, notwithstanding the exclusion may necessitate leaving the course.

Representation to the VC

120. Save in respect of a temporary removal from a placement or a suspension or exclusion from or during an organised activity away from University premises, no student would normally be suspended or excluded unless they have been offered an opportunity to make representations in person to the Vice-Chancellor.
- 120.1. In cases of great urgency, the Vice-Chancellor may suspend a student with immediate effect.
- 120.2. In respect of organised activities away from University premises, representations to the Vice-Chancellor shall be made as soon as practicable following return to the University.

Review of Suspension and Exclusion

121. A decision to suspend, or exclude, from academic activities associated with the student's course of study (other than access to the Library), shall be subject to review, where new information becomes available or at the request of the student and normally every four weeks. The Office of the Dean of Students on behalf of the Vice-Chancellor shall conduct the review which will not involve a hearing or submissions made in person, but the student shall be entitled to submit written representations.

PSP-XXV. Admission to an Alternative Programme

122. Termination of or withdrawal from professional education and training on the grounds of professional suitability under these procedures will not preclude subsequent application for admission or transfer to a suitable alternative programme leading to an award of the University. Admission shall be subject to the University's Principles and Regulations and admissions policies and shall be at the discretion of the admitting authority having regard to the nature and circumstances of the student's professional suitability for the prior programme on which they were registered.

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