

Fitness to Practise Guidance Notes

Relevant to:

All LJMU Students on Professional Programmes

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RELEVANT DOCUMENTS

Fitness to Practise Policy

RELATED POLICIES & DOCUMENTS

Fitness to Practise Policy

Fitness to Practise Guidance Notes

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1. General Information

As part of the contractual agreement with professional bodies, the university is required to monitor good health, character, discipline, standards of conduct and performance on application and throughout all pre-registration / qualification programmes and other programmes leading to professional qualifications.

Some programmes may require students to undertake external placements and/or work based practise and the University has a duty to both the student and to the public to ensure that any risk of harm is minimised.

Where appropriate, the University is responsible for ensuring that students meet the relevant professional standards in addition to academic standards. The University may also be required to sign a declaration confirming that an individual is a safe and suitable entrant to the given profession and is 'Fit to Practise'.

An offer of a place to study on some programmes offered by the University may be conditional upon the applicant being deemed fit to practise.

The Fitness to Practise of students on professional programmes will be assessed throughout the duration of the programme. If there are any concerns over the student's fitness to practise the university is required to investigate and address the issue under the University Fitness to Practise procedures.

Applicants and students prior to the commencement of the programme and throughout their programme are advised to familiarise themselves with the relevant professional body codes of conduct.

Students are strongly advised to seek independent advice and guidance from Liverpool Students Union in relation to any issue regarding their Fitness to Practise. Liverpool Students' Union can be contacted by telephone number 0151 231 4900 or by email at lsuadvice@ljmu.ac.uk

2. Defining Fitness to Practise

The Faculty of Education, Health and Community (EHC) and the Faculty of Science all offer programmes, which are subject to professional body regulation and may require students to undertake placements working with children and vulnerable adults.

In defining and assessing a student or applicants Fitness to Practise the University follows the relevant professional body guidelines, in relation to '**good health**' and '**good character**' (Appendices 1-3 of the University Fitness to Practise Policy).

a. Good Health

Evidence of good health is necessary to undertake professional practice. Good health means that you must be capable of safe and effective practice without supervision. It does not mean the absence of any disability or health condition. Many people with disabilities and many with health conditions are able to practise with or without adjustments to support their practice.

It is important to note that if you have a disability or a health condition this will not necessarily prevent you from entering a professional programme or professional register but full disclosure will be required and the University is required to fully consider all disclosures.

Students on professional programmes are expected to notify the Programme Leader at any time during the programme if there are any issues with their health that may impact on their Fitness to Practise. In addition, the University may request an annual declaration from students on professional programmes regarding their 'Good Health' status.

b. Good Character

Evidence of good character is an important requirement to enter onto a professional programme or professional register, which requires registrants to be honest and trustworthy. The University defines good character based on your conduct, behaviour and attitude.

This also includes any criminal convictions and cautions that are not considered compatible with professional registration and that might bring the profession into disrepute. Your character must be sufficiently good for you to be capable of safe and effective practice without supervision.

Applicants and students for these programmes are required to provide details of **ALL** cautions/convictions that are not 'protected' and an enhanced Disclosure and Barring Service (DBS) Certificate will be required.

Students on professional programmes are expected to notify the Programme Leader at any time during the programme if there are any issues with their 'character' (for example they are subject to police investigations) that may impact on their Fitness to Practise. Professional programmes may also request all students to declare annually that no new cautions/convictions have been obtained.

Students and applicants must note that Professional Programmes are exempt from the Rehabilitation of Offenders Act 1984 and therefore criminal convictions and cautions are never classed as 'spent'.

However, the amendments to the Exceptions Order 1975 (2013) provide that certain convictions or cautions are 'protected' and are not subject to disclosure. Those convictions or cautions which meet the Disclosure and Barring Service Criteria will be filtered and will not appear on a DBS Enhanced Certificate. Appendix 1 outlines the criteria used to determine whether the conviction or caution will be filtered from the DBS Certificate.

Further information on the filtering of cautions and convictions can be found at the DBS website <https://www.gov.uk/government/collections/dbs-filtering-guidance>

It is important to note that if you have a criminal conviction or a caution, this will not necessarily prevent you from entering a professional programme or professional register but full disclosure will be required and the University is required to fully consider all disclosures.

Applicants and students with criminal convictions, cautions or reprimands are normally considered under the LJMU Criminal Convictions Procedure which can be accessed at <https://www.ljmu.ac.uk/about-us/public-information/student-regulations/guidance-policy-and-process>

3. Assessment of Fitness to Practise

The University will assess the good health and good character of a student on application to a professional programme and throughout the programme, in relation to the relevant professional body guidance.

When assessing a student's or applicant's Fitness to Practise, in relation to 'good character' and 'good health' the University will consider a variety of evidence, which may include one or more of the following:

- Medical information provided by the student and/ or health screen or subsequent health examinations.
- Information provided by the student or applicant
- Criminal Records, including criminal convictions, cautions, conditional discharges, warnings etc.
- Allegations, complaints or information about a student.
- Character references
- Findings against a student by a professional body regulator either in this country or overseas.

This list is not exhaustive.

a. When assessing student's health the University will consider:

- The medical reports and opinions on the nature of your condition and how serious it is, when your condition was diagnosed and how you manage and control your condition.
- Any **reasonable** adjustments which can be made in University **and** in practice placements.
- Whether you are capable of safe, effective unsupervised practice with/without **reasonable** adjustments.
- The risk to the public, colleagues or the profession
- If you told us about your condition when you applied to the University

- Any supporting information about your condition and its impact on future practice.

The University will consider the following factors to be serious:

- If your condition or lack of insight into your condition poses a risk to the public, colleagues, employers or your chosen profession.
- If your condition requires adjustments in practice that are not reasonable.
- If your condition means that you are not capable of safe, effective unsupervised practice with reasonable adjustments.

b. To assess evidence of conduct, the University will consider:

- How serious it is
- How relevant it is to your time here as a student, and to your chosen profession
- How relevant it is to the honour and integrity of the University, Faculty and your chosen profession
- How recently the incident or incidents took place
- Your age at the time
- If you have made any effort after the incident to rehabilitate yourself
- Your insight into your past behaviour
- Testimonials and character references about your behaviour and conduct
- If such behaviour is typical of you, or indicates that you may behave like that in future
- If you were honest and upfront in telling us about the incident or incidents when you applied to study here or, if you are already a student here, immediately after the event.
- If you cooperated with us when we requested further information.

The University may require further information from you, or make further enquiries about the evidence.

The University considers the following conduct or behaviour to be serious:

- If your conduct involved violence.
- If your conduct or behaviour resulted in a criminal conviction or a finding of misconduct or unfitness to practise by any regulator
- If your conduct or behaviour involved non consensual sexual acts
- If your conduct or behaviour involved sexual acts with children or vulnerable adults.
- If your conduct or behaviour involved trafficking in, or illegally manufacturing, any controlled drug
- If your conduct or behaviour posed a threat to public health, safety or welfare
- If your conduct or behaviour involved discrimination, for instance on the grounds of race, colour, religion or sex
- If your conduct or behaviour involved, or indicated, a blatant disregard for the law, the University's Regulations or the regulator's Code of Conduct.
- If your conduct involved dishonesty, fraud, deceit or misrepresentation

- If your conduct indicated drug or alcohol dependency

This list is not exhaustive.

4. The Fitness to Practise Procedures

The University and the professional bodies require students and applicants to declare any issues that may impact on their Fitness to Practise. The University may also be notified of any issues that may impact on your Fitness to Practise.

a. Initial assessment:

When concerns are raised about a student's Fitness to Practise these will be formally reported to the relevant Faculty staff. In the first instance the Director (or nominee) will make an initial assessment of the issue and concerns.

Each case is considered individually but initial action may include one or a combination of the following measures:

- Assessing if there are any immediate risks to staff, students, clients or visitors.
- Occupational Health Referral
- Referring the student to appropriate support services
- Suspension of attendance at placement.
- Appointment of an Investigating Officer (LJMU staff or work based member of staff) to formally investigate the allegations and to report to the Director (or nominee).
- Referring the case to the relevant Criminal Convictions Panel
- Referring the case to the University Disciplinary Procedures.
- Referring the Case to the relevant Fitness to Practise Panel.
- Recommend to the Vice Chancellor (or nominee) that the student is suspended from the university until the issues are investigated and addressed/outcome determined.

It is important to note that the University procedures operate on the principles of natural justice. Students will be informed of the nature of the allegations or issues raised, and will be allowed the opportunity to respond to such allegations and concerns. The University will endeavour to obtain all the facts and evidence of the case prior to any formal decision on a student's fitness to practise

b. Suspension of placement and/or programme

Suspending a student from placement or the university is not a disciplinary measure but to allow time for a full and fair investigation and to safeguard the student and public.

Reasonable consideration will be given to aid with the student's progression wherever possible whilst the student is suspended, but students should make note that this may not be possible dependent upon the nature of the programme and the nature of the concern. The Faculty will have the authority to suspend a student from a placement, however if the student is to be suspended from the University then this recommendation needs to be confirmed by the Vice-Chancellor via Student Governance.

c. Criminal Convictions

If the applicant or student declares that they have obtained a criminal record or the DBS certificate displays evidence of a criminal record then the matter may be referred to the Criminal Convictions Procedure and to the relevant Criminal Convictions Panel <http://www.ljmu.ac.uk/corporate/SPR/84204.htm>

Students are provided with the opportunity to make written representations to the Criminal Convictions Panel which can include personal statements, probation officer reports, pre-sentencing reports and character references.

Students may be suspended from placement and/or the university pending the conclusion of the process.

d. Occupational Health Referral

Applicants to professional programmes are required to declare any health conditions that may impact on the applicant's fitness to practise. It is normal that where concerns that a student has a physical or mental condition(s) that may impair their fitness to practise then the University will refer the student for an occupational health assessment with the University Occupational Health Consultant.

What to expect at a Health Screening/Assessment

Upon application you may be required to declare any health conditions. Dependent upon your declaration the University will request or refer you for a health screening. Initially the screening will consist of a medical questionnaire and a health examination may be arranged dependent upon your questionnaire.

The Consultant will provide the Faculty with a declaration that the student is fit to practise, fit to practise with reasonable adjustments, further information is required or that the applicant is not fit to practise, on the relevant professional programme.

If a student has a disability then further information on university processes and support is available at <https://www.ljmu.ac.uk/about-us/professional-services/student-advice-and-wellbeing>

During your programme if concerns are raised that your medical condition may impact on your fitness to practise then the relevant department, will request that you provide consent for referral to the University Occupational Health consultant.

The Consultant will arrange an appointment in order to do an occupational health assessment, based on your medical condition and the professional body guidelines. The consultant may also seek your consent to contact any medical professionals to provide additional medical records or opinions.

Whilst the university will endeavour to minimise any delay in the proceedings, sometimes delays can happen and the university requires your participation in order to expedite the process.

Upon completion and provision of all the necessary information the consultant will produce a confidential occupational health assessment which will be considered through the Fitness to Practise procedures, normally through the Fitness to Practise Panel.

e. Investigation

If a student's conduct or behaviour has raised concerns about their fitness to practise then further information will be obtained by the university. This may be obtained by an investigation by the Faculty.

An investigating officer will be appointed to obtain further information and evidence in relation to any allegation issue and concern. This will include interviewing the student and where applicable any relevant witnesses.

The Investigating Officer will present a report of the findings of the investigation, referring to the evidence and the professional codes of conduct to the Director (or nominee) who will determine if any further action is required i.e. whether there is a prima facie case for consideration by a Fitness to Practise Panel.

Students may be suspended from placement and/or the university until the process is concluded.

5. Fitness to Practise Panel

If a Fitness to Practise Panel is arranged to consider concerns about a student's fitness to practise then this will consist of a Chair (normally a senior member of the Faculty), two academic staff members and at least one external representative from the profession.

a. Prior to the Panel

Students will be given reasonable notification (normally **at least ten working days** prior to the Panel) of the date, time and location of the Panel.

Students will be allowed to submit written representation to the Panel. The student will be required to submit such written representation and any supporting evidence, as well as confirming their attendance and the names of any witnesses they intend to call, prior to the Panel.

Students will be notified in advance of the names of any witnesses the presenting staff member intends to invite to the Panel.

The attendance of witnesses for the student is the student's responsibility and students will need to make the necessary contact with them to ensure their agreement and availability.

All parties will be provided with a bundle of information which will be circulated at **least five working days** in advance of the Panel.

Students will be allowed to bring a representative or friend to the Panel. Students are advised to contact Liverpool Students' Union Advice centre for independent advice and guidance Telephone: 0151 231 4900 Email lsuadvice@ljamu.ac.uk

The procedures allow students to be partners to the process and assume that they will avail themselves of the opportunities to express their point of view and bring evidence to support their arguments or allegations. There is a default mechanism for the procedures to continue and decisions to be made in the absence of cooperation or engagement by any of the parties, but it is preferable for all concerned to use effectively the chances given to participate. Reasonable efforts will be made to ensure all parties are provided with the opportunity to attend.

The University will make every effort to arrange the Panel as soon as possible (normally within 30 days). However students should be aware that this may also depend upon the availability of all relevant parties and witnesses. If there is likely to be any delay, then the University will notify all parties.

b. At the Hearing

A staff member will be appointed to present the concerns over the student's Fitness to Practise. This is normally the staff member that has conducted the investigation and completed the investigation report. Students will have the opportunity to respond to the issues raised and to call any relevant witnesses.

The full Hearing Protocol for the Panel is available in Appendix 5 LJMU Fitness to Practise Policy <https://www.ljmu.ac.uk/about-us/public-information/student-regulations/guidance-policy-and-process>

After full consideration of the evidence and the presentations made to the Panel, the Chair will act as the final arbiter in the matter after considering the opinions of all Panel members.

The decision of the Panel will be confirmed in writing **within five (5) working days** of the decision and any recommendations or further action where appropriate.

6. Panel Decisions and Outcomes

The Panel can make the following recommendations or sanctions:

- That there is no evidence that the student's fitness to practise is impaired
- The student receives no formal warning or sanction.
- Referring the matter to other LJMU Procedures such as Student Disciplinary Procedure if there is evidence of misconduct but the student's fitness to practise is not impaired.
- formal monitoring of the student's progress for a specified period of time, with or without specified support and/or conditions
- warning/caution on file for a specified period
- suspension of study for a specified period
- exclusion from the University for a specified period
- expulsion from the programme of study/University

The Panel should consider the options available starting with the least severe and moving to the next outcome only if satisfied that the lesser sanction is not sufficient or appropriate.

Students will also be advised of the appeals process should they decide to appeal against the decision.

7. Warnings and Sanctions

The conduct of a student who receives a warning or sanction, short of being expelled, will be monitored, to satisfy the School regarding the student's fitness to practise. They should also be provided with remedial or pastoral support, or both.

It will be made clear to any student who receives a warning or sanction why they have received it, its intended purpose, its expected duration, and whether or when their fitness to practise will be considered again in a formal hearing.

a. Warnings

Warnings are formal statements that indicate that a student's behaviour represents a departure from the standards expected of students. Warnings will be imposed when a student's behaviour raises concerns but it is not so serious that their fitness to practise is impaired. Support will be made available as appropriate.

Subsequent incidents will be considered in the light of earlier warnings. More serious concerns may require a sanction.

Warnings will remain on the student record for a specified period.

b. Sanctions

Sanctions enable the University to deal with fitness to practise issues as effectively as possible. Sanctions short of removal from the programme will be designed to enable a student to learn from their mistakes.

The Fitness to Practise Panel will consider whether or not the sanction will protect patients and the public. If the behaviour is of a serious nature, lower-level sanctions may not be appropriate.

When a Panel decides to impose a sanction it will be clear in its determination that it has properly considered all options and clear reasons will be provided.

c. Conditions

Conditions are appropriate where there is significant concern about the behaviour or health of a student. This sanction should be applied if the Panel is satisfied that a student might respond well to remediation, and has displayed insight into their problems. The Panel will consider all evidence such as reports on student performance, health, behaviour, and any other mitigating circumstances.

The objectives of conditions will be made clear so that the student has a clear understanding of what is expected from them. All conditions should be appropriate, proportionate and measurable.

Conditions may be appropriate when most or all of the following factors are apparent:

- The student has demonstrated insight, and there is no evidence that they are inherently incapable of, or unwilling to comply with, good practice and professional values;
- There are identifiable areas of the student's studies in need of further assessment or remedial action;
- The student is willing to respond positively to support and conditions;
- The student is willing to be honest and open with patients, other students and staff if things go wrong;
- There is evidence, in cases involving health problems, that the student has genuine insight into their health problem, is aware of the necessity of complying with the guidance on health, and has agreed to abide by conditions relating their medical condition, treatment and supervision;
- Patients and the public will not be put in danger either directly or indirectly of the conditions;
- The conditions will protect patients and the public.
- If a Panel finds that a student's fitness to practise is impaired by the reason of physical or mental health, the conditions will relate to the medical supervision of the student as well as to supervision in learning and practise environments.

8. Suspensions, Exclusions and Expulsions

a. Suspension or Exclusion from the University for a defined period of time.

Suspension or Exclusion prevents a student from continuing with their course for a specified period and graduating at the expected time.

Recommendations for suspension or exclusion must be made to the Vice- Chancellor via Student Governance for final approval. The Vice-Chancellor (or nominee) is the only member of University staff empowered to suspend or exclude a student due to Fitness to Practise issues.

When a student returns from suspension or exclusion, they may be required to comply with further conditions, such as an Occupational Health Assessment, formal monitoring etc.

Suspension is not a sanction and is normally a decision made in cases where the impairment of fitness to practise is due to health conditions.

A student's health condition may be such that suspension of the programme for a specified period of time is considered by the Panel. In such cases suspension will normally be considered by the Panel in conjunction with the advice and opinion of Occupational Health Assessments.

Although the list is not exhaustive, suspension may be appropriate when some or all of the following factors are apparent:

- Suspension may be considered for safeguarding reasons and in the interest of public safety, as well as the student's own safety.
- The health condition of the student is such that there is a risk to public safety if the student were allowed to continue on a course even under conditions;
- There is no evidence that the student is inherently incapable of following good practise and professional values;
- There will be appropriate support for the student when they return to a course.

Exclusion from the University for a specified period of time is considered as a sanction. Exclusion is normally considered in cases where the misconduct is serious but not so serious as to justify expulsion from the programme and/or University.

Although the list is not exhaustive, exclusion may be appropriate when some or all of the following factors are apparent:

- A breach of professional values that is serious, but is not fundamentally incompatible with the student continuing on a course, and not so serious as to justify expulsion to protect patients and the public – but, given the seriousness of the breach, any sanction less than exclusion would not be in the public interest;
- Exclusion may be considered for safeguarding reasons and in the interest of public safety, as well as the student's own safety.

- There is no evidence that the student is inherently incapable of following good practise and professional values;
- The Panel is satisfied that the student has insight and is not likely to repeat the behaviour;
- There will be appropriate support for the student when they return to a course.

b. Expulsion

Expulsion, the most severe sanction, will be applied if the student's behaviour or health is considered to be fundamentally incompatible with continuing at the University and/or programme. Expulsion is an outcome of a Fitness to Practise Panel when this is the only way to protect patients and the public, other students or staff

The student will be helped to transfer to another programme of study if appropriate. However, the nature of the student's behaviour or health may mean that they will not be accepted on any other Programme.

Although this list is not exhaustive, expulsion may be appropriate when a student has:

- Seriously departed from the principles set out in the University's Code of Conduct and Assessment Regulations and the relevant professional bodies Code of Conduct.
- Behaved in such a way that is fundamentally incompatible with being a LJMU student and/or a student following a professionally accredited and regulated programme;
- Shown a reckless disregard for the safety of others;
- Caused serious harm to others, either deliberately or through incompetence;
- Abused their position of trust;
- Violated a patient's rights or exploited a vulnerable person;
- Committed an offence of a sexual nature, including creating or obtaining child pornography;
- Committed offences involving violence;
- Been dishonest, including covering up their actions, especially when the dishonesty has been persistent;
- Put their own interests before those of patients, or a vulnerable person.
- Persistently shown a lack of insight into the seriousness of their actions.

Where applicable and where required the University will disclose any conditions, warnings or sanctions to the professional body. Students should be aware that they may also be required to disclose any such conditions, warnings and sanctions to the professional body.

Where applicable the University is required to refer matters to the Disclosure and Barring Service, where the relevant criteria are met. Further information is available at

<https://www.gov.uk/government/collections/dbs-referrals-guidance--2>

9. Appeals against the decision of the Fitness to Practise Panel

a. Appeal against exclusion/expulsion

Where the recommendation of the Panel is that the student should be expelled from the University, the student has a right of appeal to the Board of Governors, once this recommendation has been confirmed by the Vice-Chancellor (or nominee).

The request for such an appeal must be made in writing, giving full supporting evidence, to the Finance Director & Deputy Chief Executive (Finance & Resources Division), Ms Julie Bertolini, via Student Governance, Liverpool John Moores University, Exchange Station, Tithebarn Street, Liverpool, L2 2QP **within 10 working days** of receipt of the decision and giving grounds for appeal.

Further information can be accessed at <https://www.ljmu.ac.uk/about-us/public-information/student-regulations/guidance-policy-and-process>

b. Appeal against other decisions of the Panel.

The student has the right to appeal against the decision of the Fitness to Practise Panel if they believe and can demonstrate that:

- The process has not been conducted correctly, in accordance with the procedures
- There has been a material administrative error
- The decision of the Panel is unreasonable.

Appeals should be made in writing, with full supporting evidence, to the Fitness to Practise Appeals Panel at Student Governance, LJMU, Exchange Station, Tithebarn Street, Liverpool, L2 2QP within 10 working days of the receipt of the letter notifying the student of the Fitness to Practise Panel decision.

Students should be made aware that this is not a re-opening of the investigation and that they must provide reasonable evidence to substantiate their appeal.

Students should be made aware that disagreement with the decision of the Panel is not in itself sufficient reason to appeal.

The University will deem an appeal to be 'not eligible' if there is no reference to or evidence to support their claim.

The Fitness to Practise Appeals Panel will convene to consider whether the documentation of the case suggests that the decision of the original Fitness to Practise Panel was reasonable and the procedure was followed correctly.

The Fitness to Practise Appeals Panel may:

- Amend the decision of the original Fitness to Practise Panel
- Uphold the decision of the original Fitness to Practise Panel
- Refer the case back for reconsideration
- Defer the decision pending further information and advice
- Reject the Appeal.

The decision and any recommendations of the Fitness to Practise Appeals Panel will be notified to the student and to the original Fitness to Practise Panel.

10. Completion of Procedures and the Office of the Independent Adjudicator for Higher Education (OIA)

When the student has exhausted the university procedures the student will be issued with a completion of procedures letter.

Students, who remain dissatisfied with the final outcome of their Appeal and believe that the University has failed to follow this procedure correctly, may take their case to the Office of the Independent Adjudicator for Higher Education (OIA). Further information can be found at <http://www.oiahe.org.uk/>