



**UNIVERSITY OF BIRMINGHAM**

**CODE OF PRACTICE ON MISCONDUCT AND FITNESS TO PRACTISE COMMITTEE**

## **Index of Points**

1. Introduction
2. Referral to the College Misconduct and Fitness to Practise Committee
3. Common Principles for all Misconduct and Fitness to Practise Committees
4. College Misconduct and Fitness to Practise Committee – Full Hearing: Evidence stage
5. College Misconduct and Fitness to Practise Committee: Outcome or sanction stage
6. University Misconduct and Fitness to Practise Committee
7. University Misconduct and Fitness to Practise Committee – Appeal Hearing Process
8. Relationship to Other Procedures – Extenuating Circumstances and Academic Appeals

Appendix A: Referral and Constitution of the Committees

Appendix B: Sanctions for non-academic misconduct

Appendix C: Sanctions for academic misconduct

Appendix D: Conditions and Outcomes in Fitness to Practise Cases

Appendix E: Closing Considerations



## 1 Introduction

- 1.1 This Code of Practice applies to all Registered Students, Students on Leave of Absence (including suspended Students), External Students, Thesis Awaited Students and Graduands (collectively referred to in this Code of Practice as “Students”). This Code of Practice sets out the procedures for the following:
1. misconduct cases referred to the College Misconduct and Fitness to Practise Committee in accordance with Regulation 8;
  2. cases referred to the College Misconduct and Fitness to Practise Committee on the basis of concerns, including professional or health concerns of Students following Fitness to Practise programmes;
  3. cases referred to the College Misconduct and Fitness to Practise Committee in accordance with the Code of Practice on Academic Integrity;
  4. appeals to the University Misconduct and Fitness to Practise Committee.
- 1.2 In relation to Students registered on a Fitness to Practise programme (as defined in Regulation 1), concerns about misconduct, either academic or non-academic (which could include professional concerns), will be dealt with under the procedures outlined in Regulation 8.
- 1.3 All references in this Code of Practice to the Academic Registrar, Pro-Vice-Chancellor (Education), Head of College, and other positions identified by title, include their nominee.
- 1.4 For the purposes of this Code of Practice ‘working days’ refers to University working days (i.e. Mondays – Fridays, excluding Public Holidays and University Closed Days).
- 1.5 In the case of students based at the University’s overseas campuses working days will reflect national public holidays and any locally designated closed days.
- 1.6 In considering misconduct and fitness to practise matters, the University will observe the rules of natural justice and procedural fairness.
- 1.7 Students undertaking a period of study abroad will be subject to the misconduct procedures of the host institution in that time. They may appeal to the University Fitness to Practise Committee on the grounds set out in 6.1, below, at which point the University of Birmingham’s review processes will operate.
- 1.8 The host institution will be asked to report any misconduct proceedings against a student on a Fitness to Practice programme. In such cases the University of Birmingham reserves the right to review decisions made by the host institution.
- 1.9 The University will correspond only with the Student. Even if the address provided by the student is that of a ‘Friend’, solicitor or other third party, no correspondence will be entered into with that (or any other) third party.



- 1.10 Students involved in misconduct proceedings may contact Guild Advice in the Guild of Students for free, confidential and impartial advice and support throughout the process.

## **2 Referral to the College Misconduct and Fitness to Practise Committee**

- 2.1. Students will be referred to a College Misconduct and Fitness to Practise Committee in accordance with the circumstances outlined in Section 1.1.
- 2.2. On receiving a referral, the Secretary, on behalf of the Head of College, will send to the Student an Investigating Officer's Report which will set out the reason for referral to a Committee, including any alleged breaches of Regulations, and details of the investigation (including any relevant evidence and incorporating any statement made by the Student during the investigation).
- 2.3 The Student will be provided with an opportunity to submit a response to the Investigating Officer's Report within 10 working days from the date of the letter. This response may include any evidence to support their explanation e.g. medical evidence or witness statements. Any evidence not written in English must be accompanied by a certified translation.
- 2.4 Any evidence or response received after the relevant deadline will be considered by Student Conduct, Complaints, and Appeals (SCCA) and/or by the Chair and will normally only be admitted where there is good reason for the delay. Any evidence or response received on the day of the hearing will not normally be admissible and may be admitted only at the discretion of the Chair.
- 2.5 The Student's response to the Investigating Officer's Report will be given to the Investigating Officer and/or Case Presenter, as appropriate.
- 2.6 As soon as reasonably practicable, a College Committee will be convened. The Committee will be constituted in accordance with Appendix A.7. The Student will be sent the following information, at least 10 working days before the hearing:
- a) the date and venue of the hearing;
  - b) the papers that will be considered by the Committee (including the Investigating Officer's Report and any response by the Student);
  - c) any supplemental report related to specific concerns regarding the Student's fitness to practise and / or previous findings of misconduct relating to the Student (which will be given to the Committee only if the case is found proven);
  - d) the names of the Committee members.
- 2.7 In cases where a supplemental report is sent to the Student, the Student will be invited to respond to the supplemental report in writing.
- 2.8 The Student will be asked to submit the following information at least five working days before the hearing:



- a) the name and status of their Friend (and/or representative if the Student is registered on a Fitness to Practise programme) that will be accompanying them to the hearing;
- b) the names of any witnesses they wish to call, and a brief outline of the evidence the witness is expected to give; and
- c) any request for a witness to attend by telephone or video conferencing.

2.9 In addition, the Student and the Case Presenter may be required to submit the questions they wish to ask at the hearing at least five working days in advance before the hearing. These should include:

- Questions from the Student for the Case Presenter;
- Questions from the Case Presenter for the Student;
- Questions from the Student and the Case Presenter for their own and other witnesses.

The Case Presenter's and Student's questions will be considered by the Chair in advance of the hearing, to determine:

- a) The relevance of the questions to the allegations under consideration by the Committee;
- b) Potential prejudice to the parties involved if questions are admitted or refused, in whole or in part;
- c) Reasonableness;
- d) Proportionality.

If required and appropriate, the Chair might determine at their discretion that some or all of the questions submitted for their consideration should be disallowed or rephrased. If the questions are to be rephrased, the Chair will decide the revised wording.

In the event that new questions for the witness are submitted by the Student or the Case Presenter on the day of the hearing, the hearing will be paused and all parties except for the Chair and Secretary will leave the hearing while the Chair considers whether the questions are admissible according to the criteria outlined above.

### **3 Common Principles for all Misconduct and Fitness to Practise Committees**

3.1 The Student may object to a member of the Committee. The only ground for objection is that of possible bias arising from either:

- a) involvement of the member in the issues to be considered by the Committee at an earlier stage, or
- b) involvement of the member in a related appeal hearing, misconduct hearing or grievance procedure, or
- c) material knowledge of the matter or Student.

An objection must be submitted within no more than five working days of the date of notification of the Committee membership. The Academic Registrar will decide whether that Committee member should continue or be replaced. For membership of Committees, see Appendix A. The Investigating Officer (Case Presenter), Secretary, and any legal



representative present are not members of the Committee and the Student therefore cannot object to their attendance.

- 3.2 All hearings will be held in private. The University does not normally permit hearings to be recorded; rather, a written record of the proceedings will be produced by the Secretary in accordance with paragraphs 5.4 and/or 7.6.
- 3.3 In the circumstances where a third-party has been appointed as Investigating Officer in accordance with Regulation 8, that person or a nominee may act as the Case Presenter.
- 3.4 It is expected that the Student will attend the hearing in person. The University may, at its discretion, approve arrangements for the Student to attend by telephone or video conferencing where such arrangements are possible and it is unrealistic for the Student to attend in person, or this has been agreed as a reasonable adjustment (see paragraph 3.5).
- 3.5 Reasonable adjustments shall be made to the procedure to allow fair access for students with a condition or disability which has a significant, adverse and long-term effect on their ability to carry out normal day-to-day activities: for example, receiving correspondence in a particular format or scheduling frequent breaks in the proceedings. Students are requested to make any reasonable adjustments known to SCCA, or the relevant Case Manager for Fitness to Practise areas, so that these can be put in place. The University may seek expert opinion regarding reasonable adjustments to ensure appropriate implementation and a record of any such adjustments shall be kept.
- 3.6 Where a Student submits a request to defer the hearing, SCCA or the relevant Case Manager will consider whether the Student has provided a good reason for being unable to attend the hearing (whether in person or by telephone or video conferencing), and whether the length of the postponement is reasonable. Where necessary, SCCA or the relevant Case Manager will consult with the Chair regarding whether the deferral should be agreed. The Student must submit appropriate evidence to support their request for a deferral. The Student will be made aware that requests to defer the hearing might result in delays and/or different Committee members being appointed, depending on staff availability.
- 3.7 Where a Student, for any reason, does not attend the hearing, the Committee will decide whether to proceed or adjourn the hearing. The Committee has the right to consider the case and to reach a decision in the absence of the Student. However, no adverse inference should be drawn if a Student does not attend the hearing.
- 3.8 No-one shall be asked to swear an oath, but those involved in the proceedings are expected to make statements and answer questions truthfully.
- 3.9 The Chair, with advice from the Secretary, will decide whether any evidence submitted by any party is admissible according to the criteria set out in paragraph 2.9. Their decision shall be final.
- 3.10 Committee hearings will normally proceed as set out in the Guidance to Accompany the Code of Practice. The Chair has the discretion to manage the hearing as appropriate to ensure fairness and in accordance with the following principles:



- a) The Case Presenter and Student may each present their case and call witnesses;
- b) The Case Presenter, the Student and each witness may be questioned by the other party through the Chair and by the Committee;
- c) Once a witness has given evidence and been questioned, they must leave the room;
- d) Each party may make a closing statement which must be based on the evidence provided, with the Student making the final statement.

- 3.11 Committee decisions shall be taken by a simple majority of the members present and voting. The Chair will have the casting vote in the event of a tie. Findings will be made based on a balance of probabilities.
- 3.12 The Student may be accompanied by a 'Friend' (as defined in Regulation 1) at the hearing. A Friend may make opening and/or closing statements for the Student at the hearing and may ask questions on behalf of the Student, but cannot answer questions or give evidence on behalf of the Student. The Student is responsible for arranging a Friend to accompany them to the hearing. A Friend cannot also act as a witness or give evidence for the Student. If a Student has a condition or disability which has a significant, adverse and long-term effect on their ability to carry out normal day-to-day activities and, as a reasonable adjustment, wishes to be accompanied by an individual not meeting the definition of a Friend as defined in University Regulations (for example, a support worker, Independent Sexual Violence Advisor, or Independent Domestic Violence Advisor), they should submit their request in writing, accompanied by any appropriate evidence, and the Academic Registrar (or nominee) will consider at their discretion whether to accept or refuse a request. In order to maintain confidentiality and to comply with the relevant legislation relating to data protection, it will not normally be possible to accommodate requests for relatives or friends to attend a Committee or associated proceedings, unless they otherwise meet the definition of a Friend as defined in Regulation 1.
- 3.13 If a Student's Friend does not comply with the requirements of the Code of Practice and/or any requests made by the Chair before or during the hearing, the Chair may adjourn the hearing or require the Friend to leave the hearing.
- 3.14 As the University's procedures are not a formal legal procedure, it is not normally necessary or appropriate for a Student or the University to be legally represented at any meetings that form part of the procedure. If a Student wishes to be accompanied to a Committee hearing by a professional defence union or a legal representative, at their own cost, they must apply for permission in writing at least five working days in advance of the hearing and setting out their reasons for the request. The Academic Registrar will consider at their discretion whether to accept or refuse a request, taking into account the considerations in paragraph 3.14. If a legal representative or professional defence union representative attends the hearing, they will act in the capacity of a Friend as set out in paragraph 3.12. If the questions proposed by the parties are to be submitted in advance of the hearing, the procedures set out in paragraph 2.9 will also apply to the Student's Friend/legal representative.
- 3.15 Legal representation will normally only be granted on the basis of the considerations detailed below. Legal representation will not normally be permitted solely on the basis that a case is sufficiently serious to have been referred to a hearing.



- a) the seriousness of the allegations against the Student;
- b) whether any points of law are likely to arise;
- c) the capacity of the Student to understand the case against them;
- d) any procedural difficulties;
- e) the need to avoid delay;
- f) the need for fairness between the Student and any reporting party.

If legal representation is permitted, the Case Presenter and/or the Committee may also be similarly represented. In either case, the Student will be provided in advance of the hearing with details of any legal representative who will be attending.

- 3.16 Students may not normally request a postponement because of the unavailability of any person who they wish to accompany them to the hearing as a Friend or representative.
- 3.17 It is the responsibility of the Student and the Case Presenter to arrange for their respective witnesses to attend the hearing. If a witness (including a Principal Academic Unit (PAU) representative) fails to attend, the Committee will decide whether to proceed in their absence, or to adjourn the hearing. If, in advance of the hearing a witness indicates that they are unable to attend, the Chair may postpone the hearing providing there are reasonable grounds to do so, and the length of any postponement is reasonable.
- 3.18 The Chair may, at their discretion, approve arrangements for a witness to attend by telephone or video conferencing where such arrangements are possible and a good reason has been provided why the witness cannot attend in person.
- 3.19 Students (or any individual acting or claiming to act on behalf of them) should not contact the Committee Chair and/or panel members in advance of, during any adjournment to, or after the conclusion of the hearing. Where attempts are made to influence the outcome of a Committee, disciplinary action may be taken in accordance with Regulation 8.

#### **4 College Misconduct and Fitness to Practise Committee - Full Hearing: Evidence stage**

- 4.1 The Committee will normally be conducted in accordance with procedures set out in the Guidance to Accompany the Code of Practice on Misconduct and Fitness to Practise Committee. The Committee will normally begin once all the members of the Committee are present, except that if the student member of the Committee nominated by the Guild of Students is not in attendance for whatever reason, then the Committee may proceed without a student member, at the discretion of the Chair.
- 4.2 In cases of alleged misconduct, the Chair should establish whether the Student admits or denies the allegation and reach one of the following decisions:
  - (a) If the Student admits the offence, as detailed in the Investigating Officer's Report, the hearing may proceed to the sanctioning stage (Section 5), unless the Chair decides it is appropriate to hear the case in part or full.
  - (b) If the Student denies the offence or offences in whole or in part, a full hearing will be held, and the process outlined in Section 4.6 should be followed.





- 4.3 During the evidence stage of a hearing, the Case Presenter should not refer to any previous findings except in the following cases:
- (a) where the allegation relates to academic integrity, or
  - (b) where the case relates to a breach of conditions imposed by a previous Committee, or
  - (c) where the case relates to Fitness to Practise and there is important explanatory evidence about a pattern of behaviour that raises concerns about the Student's fitness to practise; or
  - (d) where it is evidence to correct inaccurate information from the Student about their conduct.
- 4.4 For cases referred to a Committee on the basis of health concerns of a Student following a Fitness to Practise programme, if the Student agrees that they have a health concern that may impair their Fitness to Practise, as detailed in the Investigating Officer's Report, the hearing may proceed to the outcome stage (Section 5), unless the Chair decides it is appropriate to hear the case in full. Otherwise, a full hearing will be held, and the process outlined in Section 4.5 should be followed.
- 4.5 The hearing will normally proceed in accordance with the principles in paragraph 3.10.
- 4.6 In academic integrity cases, the Student will normally be asked to outline any mitigating circumstances during the evidence stage. The Committee will not take this mitigation into account when determining whether the allegation is found proven. If the allegation is found proven, the Committee will consider any information and evidence received about mitigating factors when considering a sanction.

In academic integrity cases involving students registered on a Fitness to Practise programme, multiple students, or at the Chair's discretion in other exceptional cases, a separate sanction stage will be required and the procedures outlined in section 5 will be followed.

- 4.7 The Student, their Friend, and the Case Presenter will be asked to leave the Committee at the end of the evidence stage, and the Committee will decide whether the allegation is found proven. The Committee's deliberations will normally proceed as follows, depending on the type of case being heard:
- a) In academic integrity cases, the Committee will decide whether the allegation is found proven, and where relevant, on the categorisation in accordance with the categories listed in the Code of Practice on Academic Integrity. If moderate or serious academic misconduct is found proven, the Committee will then decide on any applicable sanction. The hearing will not be reconvened. The decision will be communicated to the student and Case Presenter in line with paragraph 5.4.
  - b) For Fitness to Practise cases, non-academic misconduct cases, cases involving multiple students, or in other exceptional cases, the Committee will determine whether the allegation is found proven. Once the Committee has decided, the hearing will be reconvened. The Chair will inform all parties of the Committee's decision. If an allegation is found proven, the hearing will proceed to the sanction stage as set out in section 5.



- c) For Fitness to Practise cases relating to a Student's health only, the Committee will decide whether there is a health issue that may be impairing the Student's fitness to practise.

## **5 College Misconduct and Fitness to Practise Committee: Outcome or sanction stage**

- 5.1 At the start of this stage for those cases as specified at paragraph 4.7 b) or c), any supplemental report will be distributed to the Committee. Additional evidence related to any mitigating factors or character references may also be admitted at the discretion of the Chair.
- 5.2 The Committee will then decide on the outcome or sanction to be imposed from Appendices B, C or D as appropriate, and decide on any Closing Considerations (Appendix E). In determining the sanction or outcome, the Committee may take into account any history of previous findings of misconduct.

### **5.3 Fitness to Practise**

If a Student registered on a Fitness to Practise programme is found to have breached University Regulation 8: Student Conduct, before deciding an appropriate sanction, the Committee will consider the Student's fitness to practise, and whether it is impaired.

For other matters, the Committee will decide whether the Student's fitness to practise is impaired before deciding on an appropriate outcome in accordance with Appendix D.

If the Committee decides that the Student's fitness to practise is impaired, the Committee will then consider whether that impairment is remediable. If the Committee decides that conditions are necessary in accordance with Appendix D, the Committee may defer deciding on the outcome or sanction until it has reviewed whether the conditions have successfully remediated the impairment.

The Committee may adjourn to consult a relevant professional body before deciding the outcome.

### **5.4 Decision Letters and Reports**

The decision made by a Committee will be confirmed in writing to the Student in a report outlining the reasons for referral to Committee, a summary of evidence received, and the reasons for the decisions of the Committee (including any sanction imposed, if applicable). This report will normally be sent to the Student within five working days of the hearing, and in any case as soon as reasonably practicable. In cases requiring a lengthier hearing or involving multiple students it may be necessary to exceed this timeframe.

## **6 University Misconduct and Fitness to Practise Committee**

- 6.1 A Student may appeal against the decision of the College Misconduct and Fitness to Practise Committee on one or more of the following grounds:
  - a) the sanction is disproportionate to the offence;



- b) a procedural irregularity;
- c) relevant new evidence which was not available for good reason at the time of the College Committee hearing, relating to the offence(s) being found proven;
- d) relevant new evidence which was not available for good reason at the time of the initial hearing, relating to the sanction; and
- e) the outcome is disproportionate to the fitness to practise impairment that needed addressing (for Students registered on Fitness to Practise programmes only).

The appeal must be submitted within 15 working days from the date the Outcome Report was sent to the Student. It is the responsibility of the Student to submit the appeal and any further supporting evidence in writing to the University Misconduct and Fitness to Practise Committee, specifying the grounds of appeal. Appeals received after the 15 working day deadline will only be considered in the most exceptional circumstances.

- 6.2 Following receipt of an appeal, SCCA will assess the evidence provided and determine whether the University Misconduct and Fitness to Practise Committee should hear the matter afresh and in full or only on the specific ground(s) for appeal specified by the Student. If the case is heard afresh, the Committee will have all of the powers and sanctions of the College Misconduct and Fitness to Practise Committee, and the procedures outlined above in Section 4 should be followed. If a case is heard afresh by the University Misconduct and Fitness to Practise Committee, there is no further right of appeal. Otherwise, the procedures outlined in Section 7 should be followed.
- 6.3 The University Misconduct and Fitness to Practise Committee hearing will be constituted in accordance with Appendix A.8.
- 6.4 The Case Presenter will be given an opportunity to respond to the Student's appeal.
- 6.5 The Student will be sent the following information at least 10 working days before the hearing:
  - a) the date and venue of the hearing;
  - b) the papers that will be considered by the Committee (including the response by the Case Presenter or Investigating Officer to the Student's appeal along with any supporting evidence);
  - c) the names of the Committee members;
  - d) the names and status of any witnesses to be called by the Case Presenter.
- 6.6 The Student will be asked to submit the following information at least five working days before the hearing:
  - a) the name and status of their Friend (and/or representative if the Student is registered on a Fitness to Practise programme);
  - b) the names of any witnesses they wish to call, and a brief outline of the evidence the witness is expected to give;
  - c) any request for a witness to attend by telephone or video conferencing.



Any evidence or response received after the relevant deadline will be considered by SCCA and will normally only be admitted where there is good reason for the delay. Any evidence or response received on the day of the hearing will not normally be admissible and may be admitted only at the discretion of the Chair with advice from the Secretary.

Where late evidence is admitted before or on the date of the hearing, the Case Presenter and/or Committee will have the right to request that the hearing be adjourned or deferred in order to allow time to consider the new evidence, and where necessary, to respond or call witnesses to the hearing.

- 6.7. The Chair may, at their discretion, approve arrangements for a witness to attend by telephone or video conferencing where such arrangements are possible and a good reason has been provided why the witness cannot attend in person.

## **7. University Misconduct and Fitness to Practise Committee – Appeal Hearing Process**

- 7.1 The hearing will normally proceed in accordance with the principles in section 3.7.

- 7.2 The Committee will then decide on the outcome in the absence of the student, their Friend, and the Case Presenter. The Secretary and (if appointed) legal advisor will remain in attendance to advise as necessary.

- 7.3 The outcomes available to the Committee for cases heard afresh are as follows:

- a) that the allegation(s) are found not proven on the basis of the new evidence presented;
- b) that the allegation(s) are found proven, and a new sanction and/or closing considerations should be imposed;
- c) that the allegation(s) are found proven, and the original sanction and/or closing considerations should stand.

For Fitness to Practise cases, the Committee may also determine whether the student's fitness to practise is impaired, and if so, whether:

- any new conditions should be imposed;
- those previously imposed should remain in place or be amended; and/or
- to defer deciding on the outcome or sanction until the Committee has reviewed if any conditions have successfully remediated the impairment.

- 7.4 The outcomes available to the Committee for cases considered only on the specific ground(s) for appeal specified by the Student are as follows:

- a) that the appeal is rejected, and that any sanction, conditions, and/or closing considerations stand;
- b) that the allegation remains proven, but a different sanction, conditions, and/or closing considerations should be imposed;
- c) that there is new evidence which for good reason was unavailable at the time of the College Committee, and/or evidence of a procedural irregularity in the investigation of the



College Committee, which could have had a material impact on the outcome of the case, and that the matter should therefore be heard afresh.

In cases where the Committee decides that outcome (c) is appropriate, a new University Misconduct and Fitness to Practise Committee will be convened to hear the case afresh. The Committee will have all of the powers and sanctions of the College Misconduct and Fitness to Practise Committee, and the procedures outlined above in Section 4 should be followed. There will be no further right of appeal.

- 7.5 All sanctions and outcomes set out in Appendices B, C and D are available if the Committee decides that the sanction imposed or outcome decided by the College Misconduct and Fitness to Practise Committee is not appropriate.

## **7.6 Decision Letters and Reports**

The decision made by a Committee will be confirmed in writing to the Student in a report outlining the grounds for appeal, a summary of evidence received, and the reasons for the decisions of the Chair and Committee (including any sanction imposed, if applicable) and will normally be sent to the Student within five working days of the hearing, and in any case as soon as reasonably practicable. In cases requiring a lengthier hearing or involving multiple students it may be necessary to exceed this timeframe.

## **8 Relationship to Other Procedures – Extenuating Circumstances and Academic Appeals**

- 8.1 A Student cannot use other processes e.g. those under the Code of Practice on Extenuating Circumstances and/or the Code of Practice on Academic Appeals, to request an outcome that would change the outcome of the College or University Misconduct and Fitness to Practise Committee.
- 8.2. Where a decision has been made under the Extenuating Circumstances procedure prior to a College or University Misconduct and Fitness to Practise Committee taking place; that decision, in relation to the relevant assessment and/or module will be overridden by the outcome of the College or University Misconduct and Fitness to Practise Committee.

## **Appendix A: Referral and Constitution of the Committees**

- A.1 Students will normally be registered on a programme in a particular College and will be referred to that College's Misconduct and Fitness to Practise Committee. For Students registered on programmes that are not subject to Fitness to Practise requirements, allegations of non-academic misconduct may be heard by a Committee made up of panel members drawn from more than one College; allegations of academic misconduct may be heard by a Committee made up of panel members drawn from more than one College, provided that either the Chair or at least two of the panel members are drawn from the Student's College. None of the Committee members appointed to the hearing panel shall have been previously involved with the case concerned.
- A.2 If two or more Students are alleged to be involved in related misconduct, the Investigating Officer may request that the Academic Registrar (or Head of College where the student is registered on a Fitness to Practise programme) decide whether the cases should be heard jointly or separately.
- A.3 For cases involving two or more Students registered in different Colleges, the Chair (in consultation with the Academic Registrar) may appoint a member of staff from each relevant College, to reflect as closely as possible the College membership of those Students, or refer the case to the Misconduct and Fitness to Practise Committee of the College where the majority of Students involved are registered. Students registered on a Fitness to Practise programme must be referred to the relevant Misconduct and Fitness to Practise Committee.
- A.4 Students who are registered on a Programme situated outside the University's College structure (e.g. Birmingham International Academy or Liberal Arts Programmes) will have their case heard by the Misconduct and Fitness to Practise Committee deemed most appropriate by the Academic Registrar. Normally this will be the College to which the majority of their programme or the module concerned belongs.
- A.5 Sabbatical Officers of the Guild of Students will be referred to such College Misconduct and Fitness to Practise Committee as the Academic Registrar deems to be appropriate.
- A.6 In exceptional circumstances (for example, in the interests of fairness or where there may be a potential conflict of interest), the Academic Registrar may decide that the Misconduct and Fitness to Practise Committee of another College hear the case in accordance with Regulation 8.3.5.

### **A.7 Constitution of the College Misconduct and Fitness to Practise Committee**

- A.7.1 The College Misconduct and Fitness to Practise Committee pool shall comprise at least 12 members of Academic Staff of each College, which shall be appointed by the respective Head of College. The Head of College will appoint members of the pool who can act as Chair.
- A.7.2 For cases involving Students registered on a Fitness to Practise programme, the Committee shall be drawn from two pools, A and B, which shall be appointed at the beginning of each



academic session by the Head of College.

- A.7.3 Pool A shall comprise at least 12 members of Academic Staff of the College, taken from PAUs whose students are subject to Fitness to Practise procedures.
- A.7.4 Pool B shall comprise at least six members who are either honorary members of staff or external profession-specific representatives who are associated with programmes of study that include Fitness to Practise procedures, including those registered with an appropriate regulatory body and practising in a relevant profession.
- A.7.5 For cases involving Students not registered on a Fitness to Practise programme, the Committee shall normally consist of four members:
- a) The Chair;
  - b) Two members from the College Pool who have not been involved with the case;
  - c) A normally registered Student nominated by the Guild of Students who is from a different PAU to the Student subject to the allegations, and who has received training from the University on misconduct procedures.
- A.7.6 For cases involving Students registered on a Fitness to Practise programme, the Committee shall normally consist of four members:
- a) The Chair (from Pool A and appointed by the Head of College);
  - b) A member from Pool A who has not been involved with the case;
  - c) A member from Pool B who has not been involved with the case;
  - d) A full-time Registered Student nominated by the Guild of Students who:
    - i. is from a different PAU to the Student subject to the allegations
    - ii. is on a programme that is subject to Fitness to Practise procedures (including intercalated programmes)
    - iii. and has received training from the University on Fitness to Practise procedures.

## **A.8 Constitution of the University Misconduct and Fitness to Practise Committee**

- A.8.1 The University Misconduct and Fitness to Practise Committee shall be drawn from two Pools, 1 and 2.
- A.8.2 Pool 1 shall comprise of no fewer than 12 members of Academic Staff of the University, at least one of whom shall hold current General Medical Council (GMC) registration.
- A.8.3 Pool 2 shall comprise of no fewer than 12 members of honorary members of staff or external profession-specific representatives who are associated with Fitness to Practise programmes. At least one of these members shall hold current GMC registration.
- A.8.4 The Committee shall normally consist of at least three members:
- a) The Chair (normally the Pro-Vice-Chancellor (Education));
  - b) At least one member chosen from Pool 1 and none from Pool 2 for appeals from Students not registered on a Fitness to Practise programme;





- c) One member from Pool 1 and one member from Pool 2 for appeals from Students registered on a Fitness to Practise programme;
- d) The President of the Guild of Students or their nominee.

A.8.5 For appeals from Students registered on a Fitness to Practise programme, the members chosen from Pool 1 and 2 should have experience of fitness to practise issues through their involvement with designated Fitness to Practise programmes as defined in Regulation 1. In the case of appeals from Students registered for the degree of MBChB, the Committee shall include at least one member holding current GMC registration.

#### **A.9 Others in Attendance at the Committees**

- A.9.1 The Academic Registrar, or the Head of College (in cases involving plagiarism or fitness to practise), should appoint a relevant member of University staff as Case Presenter. The Case Presenter will normally be the Investigating Officer or their nominee.
- A.9.2 For College Committees, the Academic Registrar, or the Head of College (for Fitness to Practise cases), will appoint a Secretary to make necessary arrangements and notes of the hearing, and to advise the Chair and/or Committee in relation to any of the decisions made. For the University Misconduct and Fitness to Practise Committee, the Academic Registrar will appoint a Secretary to the Committee. A note-taker may also be present.
- A.9.3 The University may appoint an independent legal advisor to advise the Committee.



## Appendix B: Sanctions for non-academic misconduct

- B.1 **One** of the following sanctions may be imposed when a Student admits the offence, or the offence is found proven, and the Committee has considered the circumstances of the case:
- a) a formal written warning;
  - b) with the Student's consent and for Students aged 18 or over only, Community Service (as defined in Regulation 1) the specific details of which must be explained to the Student before consent is obtained;
  - c) a fine not exceeding the maximum decided by the Senate or its delegated authority;
  - d) restrict the Student from accessing specified University premises, services or facilities, including attending or participating in events or social activities connected to the University for a specified period;
  - e) to suspend the Student temporarily from attending placement for a specified period or until the Committee is satisfied that the Student's fitness to practise impairment has been remediated (option available for Fitness to Practise cases only);
  - f) suspend the Student from the University for a specified period;
  - g) withdrawal of the Student from the Programme (option available for Fitness to Practise cases only);
  - h) withdrawal of the Student with an award;
  - i) withdrawal of the Student without an award.

**Note:** When suspending a Student from placement until the fitness to practise impairment has been remediated in accordance with B.1.e), the Committee must specify the timescales and mechanisms for reviewing the Student's fitness to practise.

- B.2 In addition to the above, the Committee may:
- a) order the Student to make good in whole or part any damages resulting from the misconduct, either by payment or otherwise as may be appropriate;
  - b) order the Student to make a written apology to any person(s) affected by the misconduct;
  - c) accept an agreement from the Student that they will engage with appropriate student support and/or remedial tuition.

### B.3 Additional sanctions for Sabbatical Officers and Student members of University Committees

In addition to, or instead of, any of the sanctions listed above, the Committee may also impose one or more of the following further sanctions:

1. require the return of any or all documents, materials or other resources provided by the University in relation to holding an office or membership of a University committee by a specified date;
2. recommend to the Vice-Chancellor that a Sabbatical Officer's status as a Registered Student is withdrawn.



#### **B.4 Suspension of a Sanction**

The Committee may suspend a sanction, subject to conditions which should be specified and communicated to the relevant parties. Any conditions imposed should be appropriate, proportionate, workable, and measurable.

#### **B.5 Failure to Comply with a Sanction or Condition**

When imposing certain sanctions or conditions (including those outlined in Appendix D), the Committee should specify any consequences if the Student does not comply. The Academic Registrar (or Head of College for Students registered on Fitness to Practise programmes) may refer any non-compliance back to the College Misconduct and Fitness to Practise Committee (with the original membership where possible) for further consideration, and an additional sanction may be determined.

## Appendix C: Sanctions for academic misconduct

- C.1 In cases where academic misconduct (a breach of Regulation 8.2.1.j), or research misconduct (a breach of Regulation 8.2.1.a in relation to the Code of Practice on Research) is admitted by the Student or is found proven, the Committee may impose **one** of the following sanctions after considering of all of the circumstances:

### Taught Programmes and Taught Modules

- C.1.1 For Students on taught programmes of study, or where the academic misconduct takes place on a taught module which is part of a research-based programme of study:
- a) require the Student to undertake appropriate remedial tuition. The Committee should specify any consequences of failure to comply with any such requirement;
  - b) allow the examination or assessment mark obtained to stand;
  - c) reduce the examination or assessment mark to an appropriate level, including an award of zero. If this leads to failure of the module, a further attempt shall be permitted, with the overall module mark awarded capped at the pass mark or a mark decided by the Committee which would still enable the Student to obtain credit or to progress. Any such further attempt shall be taken:
    - i. at the next available opportunity; or
    - ii. at a time specified by the Committee;
  - d) reduce the module mark to an appropriate level, including an award of zero. If this leads to failure of the module, a further attempt shall be permitted, with the overall module mark awarded capped at the pass mark or a mark decided by the Committee which would still enable the Student to obtain credit or to progress. Any such further attempt shall be taken:
    - i. at the next available opportunity; or
    - ii. at a time specified by the Committee;
  - e) reduce the examination or assessment mark to an appropriate level, including an award of zero. If this leads to failure of the module, no further attempts at passing the module shall be permitted;
  - f) reduce the module mark to an appropriate level, including an award of zero with no further attempt at passing the module permitted;
  - g) limit the award of a Postgraduate Certificate, Postgraduate Diploma or Taught Postgraduate Degree to Pass or Merit only where a Merit or Distinction might otherwise have been awarded;
  - h) reduce the degree classification which would have been awarded<sup>1</sup> (which may include a fail categorisation or award of a lower alternative qualification);
  - i) suspend the Student from the University for a specified period not exceeding one year;
  - j) withdrawal of the Student from the Programme (option available for Fitness to Practise cases only);
  - k) withdrawal of the Student from the University, with an award;
  - l) withdrawal of the Student from the University, without an award.

---

<sup>1</sup> The Panel should note that the weighted mean mark and grade point average will **not** be altered when choosing this outcome.

**Note:** Where the offence occurs in a supplementary examination or assessment the mark from the original assessment shall not stand.

- C.2 In addition to any of the above, the Committee may accept an agreement from the Student to engage with appropriate student support and/or remedial tuition. The Committee should specify the consequences if the Student fails to comply with any agreement.

### **Additional Sanctions for Postgraduate Research Students**

- C.3 For Students on research-based programmes of study, the following additional sanctions are available for academic and research misconduct in addition to those sanctions outlined above:
- a) for research assessments that do not carry a numerical mark, the outcome will be considered a fail or non-submission. For example, in a case of plagiarism in a Research Student's upgrade submission, a Student may be prevented from upgrading and will remain on the original programme;
  - b) for research assessments that do not carry a numerical mark, a further opportunity to resubmit the assessment at a date specified by the Committee will be given;
  - c) the Student is permitted to submit/resubmit their dissertation/thesis for the **original qualification**:
    - i. with the offending sections/data removed, and
    - ii. the length of time given for resubmission determined by the Committee (maximum allowable 12 months), and
    - iii. with the extent of any additional work on the thesis determined by the Committee.
  - d) the Student is permitted to submit/resubmit their dissertation/thesis for **a lower award** of the University, as determined by the Committee:
    - i. with the offending sections/data removed, and
    - ii. the length of time given for resubmission determined by the Committee (maximum allowable 12 months), and
    - iii. with the extent of any additional work on the thesis determined by the Committee.

For sanctions C.3.(c) and (d) the Committee may decide that no additional work may be carried out.

## **Appendix D: Conditions and Outcomes in Fitness to Practise Cases**

### **D.1 Conditions**

In addition to the sanctions which may be applied in cases of academic or non-academic misconduct, if a Committee has found that the Student's fitness to practise is impaired, a condition may be imposed if the Committee is satisfied that:

- a) the impairment can be remedied through the conditions; and
- b) the conditions are necessary to address the impairment to the Student's fitness to practise; and
- c) the conditions are appropriate, proportionate, workable and measurable.

The Committee shall specify any consequences if the Student fails to comply with any condition imposed.

### **D.2 Outcomes for cases referred on the basis of health grounds**

For Students on Fitness to Practise programmes where the Committee agrees that the Student's fitness to practise is impaired on health grounds, the Committee may decide that **one** of the following outcomes is appropriate, after consideration of the evidence:

- a) that the Student be allowed to continue the programme under close supervision, as specified by the Committee with clearly set conditions;
- b) to accept an agreement from the Student that they will engage with appropriate support (The Committee should specify any consequences of failure to comply);
- c) to restrict the Student from accessing specified University premises, services or facilities for a specified period;
- d) to suspend the Student temporarily from attending a placement for a specified or unspecified period subject to regular review;
- e) to suspend the Student temporarily from the University for a specified or unspecified period subject to regular review;
- f) withdrawal of the Student from the Programme;
- g) withdrawal of the Student from the University.

The Committee may also impose a condition, in accordance with Appendix D.1, outlined above.

### **D.3 Review of a Student's Fitness to Practise**

If a Student's fitness to practise is to be reviewed to determine if any outcome or conditions have been successful, the Committee should specify when the review will take place and who will conduct it. The Committee (with the members of the College or University Misconduct and Fitness to Practise Committee where possible) has the right to undertake this review.



**Note:** The decision of a College Misconduct and Fitness to Practise Committee or University Misconduct and Fitness to Practise Committee is not binding upon the relevant professional body.



## Appendix E: Closing Considerations

- E.1 Having made a decision, the College Misconduct and Fitness to Practise Committee shall decide:
1. whether any record of the decision shall be placed in the Student's PAU file and, if so, whether permanently or for a limited time (for poor academic practice or moderate plagiarism this would not normally be the case); and
  2. whether any report of the matter should be made to the appropriate Head of PAU; and
  3. whether any particular reference should be made with regard to the individual's fitness to practise; and
  4. whether the Student is entitled to an academic transcript and if so what module marks should be included; and
  5. whether the Student is entitled to undertake another programme of study at the University during a specified period of time; and
  6. whether, and if so in what form, the decision should be publicised within the University in accordance with the relevant legislation relating to data protection; and
  7. whether a report should be sent to the employer or professional body or relevant record-holding body (such as the Medical Schools Council), in accordance with the relevant legislation relating to data protection; and
  8. whether the University may be required to make a referral to the Independent Safeguarding Authority or any successor organisation (in cases where there is concern that the Student's conduct gives rise to concerns about harm or the risk of harm to children or vulnerable adults);
  9. whether the Student's access to the University, its premises, activities, and social events should be restricted and, if so, whether permanently or for a specified period of time.