



# 2019 Fitness to Practise (HE13)

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**Description:**

This document outlines the Fitness to Practise regulations applicable to all students across the TEC Partnership, on a programme that involves professional practice placements and determination of fitness to practice. These regulations determine the procedures that govern the definition, investigation and outcomes of allegations of professional misconduct and/or professional unsuitability.

If you need any further advice on how the regulations work, you should contact the HE Quality Office.

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**This document is available in alternative forms**

| Reference | Change  |
|-----------|---|
| 1.1       | New   |
| 1.2       | Update to include appeal procedures.  |
| 1.2.1     | Update to replace Progression and Standards Committee with Academic Authority and Standards Senior Committee. |

## 1.0 Introduction

1.1 A student's fitness to practise is called into question when their conduct, behaviour, competence or health raises persistent concerns regarding their suitability to continue on a programme which leads to registration with a professional, statutory and regulatory body (PSRB) or in some cases where professional practice leads to contact with children or vulnerable adults.

1.2 This Code of Practice does not apply to students on BSC Nursing (Adult) GIFHE who should follow the policy of the University of Hull. <https://www.hull.ac.uk/choose-hull/university-and-region/governance/policies.aspx>

## 2.0 Purpose

2.1 The purpose of this policy is to define the intentions, expectations and actions with respect to assuring applicants' and students' fitness to practise.

2.2 The policy describes the procedures which must be followed in all cases where a school is responsible for delivering a programme which results in a professional registration or eligibility to apply for professional registration or in careers which give access to children and/or vulnerable adults.

2.3 This policy applies to all applicants, students and students who have suspended studies who are registered with a programme validated by The Grimsby Institute of Further and Higher Education or validated by another Higher Education institution (HEI) on a programme delivered by the TEC Partnership. The TEC Partnership's Executive Management Team is responsible as the ultimate arbiter for the interpretation and application of the policy.

2.4 Those applying this policy must ensure that the proceedings take account of:

- the protection of patients, clients and the public
- the declaration and maintenance of standards of professional and personal conduct and behaviour
- the need to preserve public confidence in students of the relevant profession
- the need to maintain confidence in the ability of the TEC Partnership to deal effectively and appropriately with fitness to practice allegations about students on programmes that lead to registration with a PSRB

2.5 Those applying this policy will take a sensitive yet efficient, communicative and constructive approach throughout all stages ensuring that every reasonable effort is made to comply with timescales. In exceptional cases, timescales may be extended to ensure fairness.

2.6 Where proceedings are instigated under this policy, actions should not also be taken against the same applicant/student under the regulations for Academic Misconduct, Student Disciplinary or Fitness to Study.

2.7 Students must be given the opportunity to explain, respond and defend their case. Students must be given the opportunity to seek appropriate representation from within the Group or from acceptable external sources. Legal representation will not be acceptable.

2.8 Support in the application of this policy may be sought from the relevant PSRB

2.9 All matters relating to proceedings pertaining to this policy must remain confidential to the parties concerned. The TEC Partnership may however, exercise its duty (in some cases its legal duty) to inform professional statutory or regulatory bodies and/or organisations such as the Police, Home Office, Social Services, UCAS, Student Loans Company etc.) in the sharing of information.

2.10 On completion of any proceedings, all correspondence will be placed within the student file and secured copies maintained in the HE Quality office.

2.11 The standard of proof applied to the factual aspects of the proceedings is based on 'the balance of probabilities.

### **3.0 Principles of Professional Behaviour and Standards**

3.1 Students are encouraged to demonstrate high standards in both their professional and personal lives and in accordance with the rules, regulations, policies, procedures and codes of conduct of the relevant PSRBs.

3.2 Students must adhere to the TEC Partnership regulations on professional behaviour in order to demonstrate that they are fit to practise. These cover the following areas:

- Relationships with patients and clients
- Probity – acting with honesty, integrity and worthy of trust
- Maintain effective, good practice
- Working with others
- Serious health issues

3.3 Fitness to Practise indicates that a student is capable of safe and effective practice without supervision and that their conduct and behaviour meets the standards specified by the relevant PSRB responsible for allowing candidates who complete their studies to be admitted to practice in the relevant profession.

3.4 Students are required to conduct themselves in a professional manner consistent with both their profession and as a student of the Group.

3.5 Applicants and students are required to disclose any criminal convictions (including spent convictions within the provisions of the Rehabilitation of Offenders Act 1974) and inclusion on the Disclosure and Barring Service (DBS barred list) prior to admission and whilst remaining a student of the TEC Partnership. Should an applicant or student fail to disclose information required, the applicant/student will be referred to the Fitness to Practice Committee.

3.6 Students must be aware that their behaviour outside the practice environment, including in their personal time, may impact on whether they are deemed 'fit to practise'. Behaviour at all times must warrant the trust of the public and their profession.

3.7 A non-exhaustive list of common areas of concern pertaining to professional conduct and relating to fitness to practise include:

- Aggressive, violent or threatening behaviour including bullying, criminal convictions or cautions
- Drug, alcohol or substance misuse
- Persistent inappropriate professional attitude
- Persistent rudeness to others
- Unlawful discrimination
- Harassment
- Dishonesty, theft or fraud including dishonesty outside the professional role
- Breach of confidentiality

### **4.0 Fitness to Practise – Application, Admissions and Enrolment**

4.1 All potential and current students on programmes leading to a registration with professional, statutory or Regulatory Body (PSRB) are required to undergo an enhanced Disclosure and Barring Service (DBS) check prior to enrolment. If information is received from the check which had not already been declared by the student, the case will be referred to the Fitness to Practise committee for further investigation.

4.2 To ensure that the TEC Partnership meets its obligations, an assessment will be made on a potential student's fitness to practice based on the information available at that time. An application may be refused where the school believes that an individual is not fit to undertake their chosen programme leading to registration with a PSRB.

4.3 Where a student declares a criminal conviction or caution, they will be contacted by Learner Services and asked to supply more information.

4.4 The anonymised information will then be considered by the Fitness to Practise committee which may include representation from the relevant PSRB to consider the information before making a decision on the application.

4.5 Applicants who declare an existing disability or health condition will also be required to undergo further assessment to ensure that reasonable adjustments can be made to assure fitness to practice as well as fitness to study.

4.6 Students will be required at enrolment (and re-enrolment) to self-declare information with regard to health, criminal convictions, disciplinary or formal proceedings by PSRBs or local authorities, severe mental or psychological conditions, serious recurring physical conditions or a failure to follow vaccination requirements. Failure to supply information which is subsequently brought to the TEC Partnership's attention, will result in a referral to the Fitness to Practice committee.

4.7 Positive declarations will be referred to the Fitness to Practise Committee where further information may be considered.

## **5.0 Process -Receiving information and key stages**

5.1 Information or concerns about a student or applicant's fitness to practise may be received from a variety of sources including the public, other students, practice placement staff, employers, mentors or other academic or support staff or the student themselves

5.2 Information raising or detailing concerns about a student's fitness to practise must be supported by evidence (5.3) and submitted to the Chair of the Fitness to Practice Committee (see 5.14 for its constitution). Anonymous reports will not normally be considered.

5.3 A written report must be made to the Chair. This report must state the precise nature of the behaviour and the reasons why the behaviour is believed to constitute concerns with fitness to practice as described in this policy. Anyone with knowledge of an incident must write a report in accordance with this paragraph. The report must also identify any persons who may have relevant first-hand knowledge of the behaviour or concern.

5.4 On receipt of the report, the Chair and Deputy Chair of the Fitness to Practise Committee will meet to discuss the most appropriate way forward. The Chair and Deputy Chair may consult with the relevant PSRB before deciding on any next steps. The Chair and Deputy Chair will establish as far as possible that the evidence is not vexatious.

5.5 In some instances, no further action may be taken. If it is deemed that the evidence presented does not warrant further action, the case will be closed and will be reported to the student and the person or persons making the allegations within five working days. A record of the allegations will be kept in the student's file for the duration of their study at the Group.

5.6 Should further action be required, the student will be informed at the earliest opportunity, the stages of the process outlined and a clear guide as to which stage the concern indicates.

- Stage One (Informal)
- Stage Two (Investigation/Assessment)

- Stage Three (Formal)

5.7 Stage One – If it is considered appropriate, the student will attend a meeting with the Chair or Deputy Chair of the Committee to explain their account of events and demonstrate their response to the evidence presented. This may alert the Committee representative to any relevant issues or mitigations that have not previously been raised.

The outcomes of this informal stage may be:

- No further action
- Recommendations for support or guidance from the tutor or other personnel
- Progress to Stage Two (Investigation/Assessment)
- Progress to Stage Two with suspension from practice
- Progress to Stage Two with suspension from practice and study

5.8 Stage Two – Investigation and Assessment – The Chair or Deputy Chair decides that more information is required based on the original allegation or following inadequate information from stage one. The Chair or Deputy Chair of the Committee will appoint an investigation officer from within the wider committee and will usually be an academic member of staff or manager who has not been involved with the case to date or has not had any significant relationship with the student (e.g. current tutor)

5.9 The investigating officer will be charged to undertake a thorough investigation, gathering enough high-quality evidence for the Committee to make a decision.

A thorough investigation will:

- Consider the original allegation(s)
- Outline the scope of the investigation
- Identify the sources of evidence used
- Analyse the available evidence
- Indicate any concerns that public safety, or the reputation of PSRBs are at risk
- Be timely and the timescale reported to the committee and the student where possible
- Result in a report to the Fitness to Practise Committee

5.10 The investigating officer will not return a decision on a student's fitness to practise. A report will be produced by the investigating officer along with the supporting evidence and submitted to the Committee.

5.11 The Chair/Deputy Chair of the Fitness to Practise Committee, consulting with at least two other members of the committee will decide on the most appropriate course of action:

- No further action
- Meeting with student to give guidance to student on professional behaviour and standards
- Progress to Formal Fitness to Practise Hearing (Stage 3). The student may or may not be suspended from practice or study and practice.

5.12 The Chair/Deputy Chair will write to the student outlining the outcome of Stage Two of the policy within five working days of the Stage Two outcome decision.

5.13 Suspension from Practice – if the Chair or Deputy Chair of the Fitness to Practise Committee determines that there is enough evidence at either stage one or two, and that the behaviour or professional standards breach indicates a risk or potential risk to the well-being of the student or another person, a decision may be made to suspend the student with immediate effect or from a specified date. This decision must be supported by another colleague of equal standing.

5.13.1 Suspension may be from either the whole programme or a specified part such as professional

placement based on a justification of risk.

5.13.2 The consequences of the suspension (of either the whole or part of the programme) will be set out in the letter and include guidance on attending examinations or other assessments. A copy of the letter must be held within Student Services and the HE Quality office.

5.13.3 Immediate suspension will be imposed once the student has received the signed letter. The letter must either be hand-delivered with confirmation of receipt to the student by the bearer or another form of proof of receipt obtained.

5.13.4 Suspension will be in effect until either the Chair/Deputy Chair determines that suspension is no longer required, the time period indicated in the original letter expires or the allegation is rejected at Stage

5.13.5 Lifting of suspension must be communicated in accordance with the stipulations of 5.13.3

5.14 Stage Three- Formal – Fitness to Practise Committee and Hearing.

The committee will be constituted by:

- Chair and/or Deputy Chair
- Investigating Officer
- Impartial member of Academic staff from the relevant profession
- A member of the profession to which the programme of study relates who may be external to the TEC Partnership
- Safeguarding Officer
- Secretary (not designated as a Committee member)

Anyone who has been involved in the making of the allegation or who has given first-hand evidence in the investigation must not be a member of the Committee

5.15 The student has the right to be heard at the hearing and may be accompanied by a person of their choosing (other than legal representation). This person will not act as an advocate but will be allowed to advise the student as deemed appropriate. The student's personal tutor may also be present should the student so wish and may give evidence as required by the Committee (if this has not already been included in the investigation.)

5.16 The student is entitled to waive their right to attend and be heard by notifying this in writing. The hearing must then proceed in their absence. The committee may decide to proceed with the hearing if the student does not attend and the committee has been assured that all reasonable attempts have been made to contact the student.

5.17 If a legitimate reason for non-attendance at the prescribed date/time is accepted by the committee, then the hearing shall be rearranged with at least three days' notice.

5.18 The hearing will consider the report and the oral presentation of the findings given by the investigating officer (or designated representative). The hearing will also consider any further evidence presented prior to the hearing. The student has the right to be present for the presentation of this evidence.

5.19 The Hearing Committee or the student may call upon witnesses who can provide first-hand knowledge of any matters pertaining to the case.

5.20 The proceedings of the hearing will be recorded by a member of staff other than a committee member (Secretary)

## **6.0 Decision of the Hearing Committee**

6.1 Once all evidence has been presented the Committee will consider its decision in private.

6.2 If the Hearing Committee decides that the case is not proven, the Committee must rule that the allegation is rejected and the case closed. No sanctions will be imposed and the student must be notified of this decision and the reasons within three working days. Transcripts of the hearing should be made available to the student upon written request.

6.3 The Hearing Committee shall decide on a balance of probability whether the student

- Is fit to practise and/or
- Has behaved in ways which constitute sanctions under the disciplinary policy

6.4 Where the Hearing Committee determines that the student is not fit to practice or has behaved in ways to require sanctions it must order that:

- The student's programme of study is terminated with immediate effect
- The student is transferred to another programme with no professional accreditation where this is possible
- The student is issued with appropriate disciplinary warning
- The student is required to suspend study until such time as any undertakings or recommendations are fully met

6.5 The Hearing Committee will consider the contexts of their decision based on any prior warnings or sanctions, the nature of the conduct, any mitigation or extenuating circumstance and the student's record on the programme prior to the allegations.

6.6 The decision of the Committee and reasons for the decision will be communicated to the student in writing within three working days. Any warning will be issued within seven working days.

6.7 The Chair or Deputy Chair will inform in writing, any external body including the relevant PSRB of the decisions of the Committee where the student's programme has been terminated under the Fitness to Practise policy or provide evidence to these organisations as determined appropriate. This will include the Student Loans Company and their employer.

6.8 If termination of the programme is the outcome of the Hearing Committee, their recommendation will be submitted to the Principal who will take responsibility for the decision to terminate the student's programme.

## **7.0 Appeal Stage**

7.1 Students may appeal against the decision and/or penalty imposed by the Fitness to Practise Hearing Committee but not in respect to the professional judgement of the Hearing Committee as to professional unsuitability (fitness to practise). Appeals may be received in respect to the application of the procedure through which the decision was made.

7.2 The outcome of an Appeal Committee that the decisions of a Hearing Committee should be set aside due to procedural failings, does not limit a new allegation in respect of the same incident as the original. However, in this instance, the allegation must be heard by a committee comprising of entirely different members to the original.

## **7.3 Independent external review (OIA)**

7.3.1 For students on Grimsby Institute Foundation Degrees, Once the formal appeal stage has been completed, the student is entitled to request a completion of procedures letter and then ask the OIA, the independent ombudsman service, to review his or her complaint about the outcome of the provider's Fitness to Practise Process. The appeal should be submitted to the OIA within 12 months of the date of the



Completion of Procedures letter.

7.3.2 For students on partner university validated courses once TEC Partnerships have made their final determination, they have the right request a Final Determination of TEC Partnership letter. They then have the right to appeal through relevant university. For University of Hull Students this must be completed within 15 working days of receipt of the Final Determination of TEC Partnership letter. Once the University of Hull have reviewed the complaint they will issue a completion of procedures letter allowing review by the OIA.

## **8.0 Reporting and Monitoring**

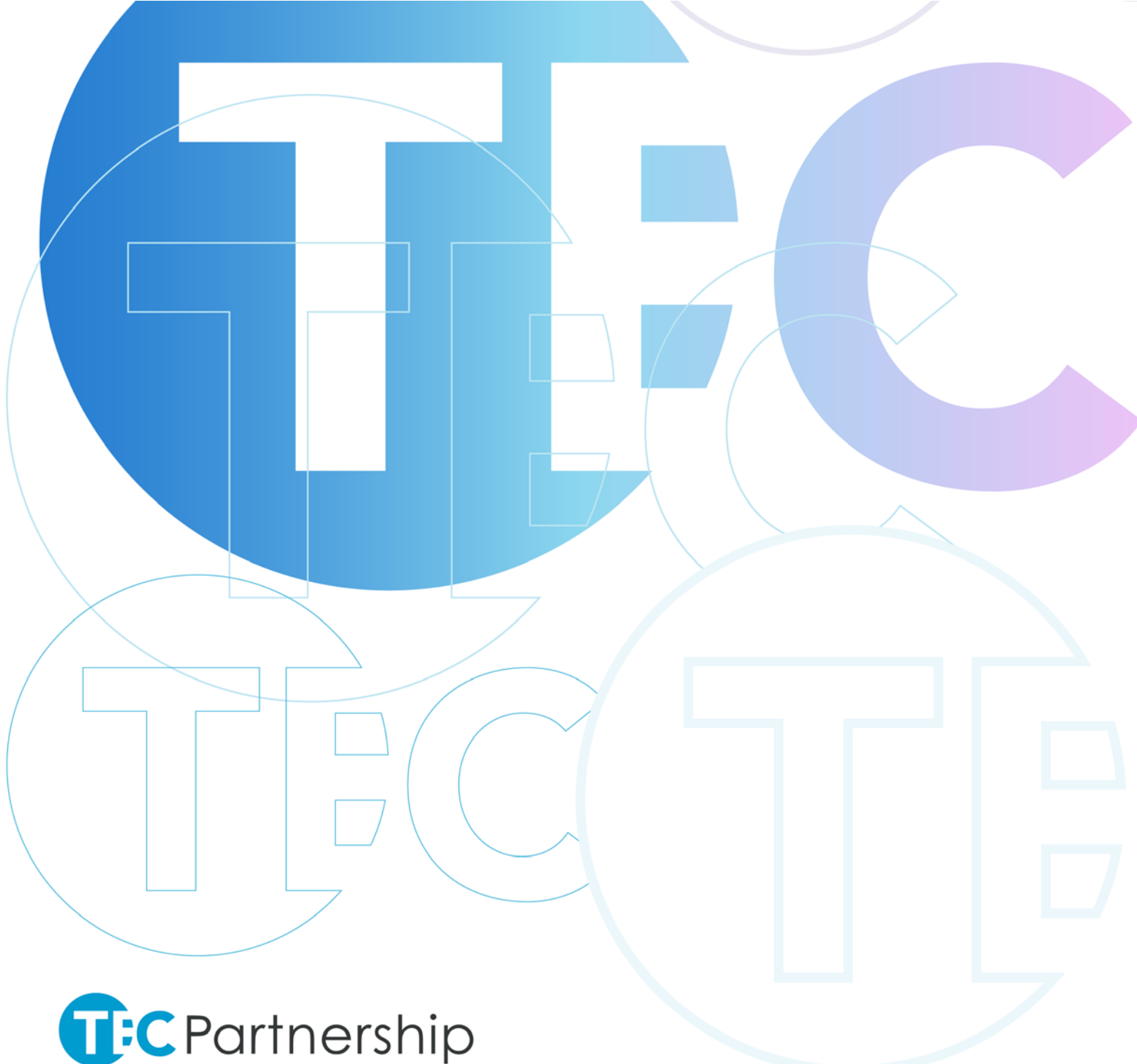
8.0 The TEC Partnership's Academic Authority and Standards Senior Committee will review findings, themes and trends relating to fitness to practise and report institutional themes to the HE Oversight Committee.

8.1 The TEC Partnership is committed to widening participation and to promoting lifelong learning in conjunction with its equality of opportunity policies. It actively employs strategies to fulfil these aims. The TEC Partnership is committed to pursuing non-discriminatory systems and practices inclusive of the following:

- i. learning difficulty/disability and/or sensory/mobility impairment
- ii. gender
- iii. ethnic or cultural origin
- iv. religion
- v. age
- vi. socio-economic group
- vii. sexual orientation

8.2 This Code of Practice is informed by the following:

- i. Equality Act (2010)
- ii. Freedom of Information Act (2000)
- iii. Data Protection Act (1998)
- iv. Rehabilitation of Offenders Act (1974, 2016).



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