

FITNESS TO PRACTISE (FtP) PROCEDURES

1. Introduction

- 1.1 This FtP Code of Practice and Procedures are part of the University's framework for dealing with student welfare and conduct, as referenced in the Enrolment Conditions and Student Handbook. In applying these Procedures, the University seeks to comply with all relevant legislation promoting privacy, equality of opportunity and anti-discrimination.
- 1.2 The University recognises that Fitness to Practise is a complex and multifaceted issue. This policy therefore sets out the framework within which the University will endeavour to operate in relation to cases where concerns are raised over students' Fitness to Practise.

2. Principles

- 2.1 For courses at the University which are delivered in partnership with placing agencies and employers, information pertaining to a student's Fitness to Practise will be shared between those parties in the interests of public protection.
- 2.2 This Fitness to Practise (FtP) Procedure may be used as a stand-alone procedure or in conjunction with any other relevant University procedures such as the Student Academic Misconduct, Disciplinary Procedures, Admissions Policy or Newman University Expected Conduct Code. The Fitness to Practise Procedures will not be used as an alternative to informing law enforcement agencies or other regulatory bodies where issues of public protection come to light.
- 2.3 Where a member of staff is unavailable to carry out any of the activities allocated to them in this FtP Procedures, the University shall be entitled to substitute another member of staff with appropriate experience and seniority to undertake those activities.
- 2.4 The University will keep a Fitness to Practise Register and all incidents dealt with under this policy must be recorded on the Register.

3. Fitness to Practise Standards

- 3.1 The government defined Fitness to Practise as having the health and physical capacity to carry out the prescribed activities (The Education (Health Standards) (England) Regulations 2003 section 6 (1)).
- 3.2 The prescribed activities are defined as:
 - a) planning and preparing lessons and courses for children;
 - b) delivering lessons to children;
 - c) assessing the development, progress and attainment of children;

- d) reporting on the development, progress and attainment of children;
- e) an activity which assists or supports teaching;
- f) supervising, assisting and supporting a child;
- g) an administrative or organisational activity which supports the provision of education;
- h) an activity which is ancillary to the provision of education.

In paragraph b) “delivering” includes delivery via distance learning or computer-aided techniques.

- 3.3 For the purpose of this FtP procedure, the university will expect all ITT students to meet the government’s definition of fitness to practise in 3.1 above, irrespective of the phase or age range which they are training to teach.

4. Scope

- 4.1 This FtP Procedure applies to all applicants for, and those who enrol on, courses at the University that lead to a professionally recognised qualification, for example Initial Teacher Training, Counselling, Psychotherapy (irrespective of whether or not they seek, after leaving the University to work in the professional area), from the point at which they initially apply for a place at the University up to completion of their programme of study (i.e. when they graduate or formally leave the University). It applies to all stages of a student’s progression including academic and practice learning performance.

- 4.2 The FtP Procedure also applies to student who are undertaking or about to begin placements with partner providers. It is complementary to and does not seek to supersede the University’s Fitness to Study Procedures <https://sharepoint.newman.ac.uk/supp/poli/Student%20Policies/Fitness%20to%20Practise%20and%20Study%20Policies/Fitness%20to%20Study%20Policy%20and%20Procedure.pdf>

5. Triggering Action Under the FtP Procedures

- 5.1 The FtP Code can be invoked when the University becomes aware of alleged conduct by a student which, if proven, might cause the University to consider that the student had failed to meet professional standards of conduct for awards that lead to a professionally recognised qualification.

- 5.2 Examples include, **but are not limited to**, situations in which:

- a) A student has abused the trust of a partner provider;
- b) A student has engaged in a relationship with a learner, learner’s parent, or member of staff of a partner organisation, which would be deemed unacceptable and improper in a professional context;
- c) A student’s practice has contravened the values underpinning the professional standards of conduct for awards that lead to the professionally recognised qualification in which they are studying.

- d) There is evidence of a student's serious or repeated mistakes in practice which reflect on their honesty, integrity and or trustworthiness;
- e) A student has failed to disclose or withheld relevant information relating to criminal convictions or health conditions;
- f) A student has criminal convictions which are of a nature and/or degree that call into question a student's ability to conduct themselves in the professional area related to the qualification they are studying;
- g) A student has health conditions which are of a nature and/or degree that call into question a student's ability to conduct themselves in the professional area related to the qualification they are studying;
- h) Serious academic irregularities call into question a student's honesty or trustworthiness;
- i) A student's conduct in a placement is deemed to have breached the placement provider's policies or procedures in a manner which would (if the student had been an employee of the placement provider) have resulted in formal disciplinary action against them;
- j) A student's conduct in the course of their employment has resulted in formal disciplinary action against them by their employer, and the conduct in question could reasonably be perceived as impacting adversely on the student's Fitness to Practise in the context of this FtP Procedures.

5.3 In certain circumstances Fitness to Practise concerns may be so serious as to constitute malpractice. Conduct of the type would typically be perceived as malpractice, with more serious cases (if proven) being likely to result in termination of studies and expulsion from the University.

5.4 The procedures to be followed when concerns are raised in respect of Fitness to Practise are described at Section 8 of this document.

6. Referral to the Police and Criminal Proceedings

6.1 Where conduct by a student has been reported to the Police as a suspected criminal offence, this will not preclude the University from taking its own action under the FtP Procedures (or any other applicable University procedure). Whether to proceed simultaneously or await the outcome of action by the Police shall be at the discretion of the University.

6.2 If conduct by a student is reported to the Police as a suspected criminal offence and the Police decide not to pursue the matter, the University shall still be entitled to pursue its own action under the FtP Procedures (or any other applicable University procedure) in respect of that conduct.

6.3 Where an alleged criminal offence by a student is also being considered under the provisions of the FtP Procedures, the University is entitled to rely on any of the following as evidence of the criminal offence having been committed:

- A certificate of criminal conviction;
- A transcript or formal record of a Criminal Court's judgement;
- A transcript or formal record of the decision of a Civil Court or Tribunal;

- Confirmation by the Police of a formal caution having been issued.

7. Advice and Support for Student Subject to Action under the FtP Procedures

- 7.1 The Student Union provides advice service for students. That service is independent of the University, and offers support and advice to students during formal Hearings. Students who are subject to action under the FtP Procedures are advised to seek advice and assistance from the Student Union (they have a Student Advice Clinic). Also see 9.4.

8. Procedures for Consideration of FtP Concerns

8.1 FtP cases occurring at application stage (pre-enrolment)

8.1.1 Where the University becomes aware of matters which may affect its view of an Applicant Student's Fitness to Practise (i.e. prior to them formally enrolling with the University) the matter shall be referred to a Safeguarding Panel, comprising the University Secretary & Registrar, Pro-Vice-Chancellor (Formative Education) and a Dean of Faculty.

8.1.2 The Safeguarding Panel will be entitled to request relevant evidence and information that they believe is necessary for them to determine whether the matter casts doubt on the Applicant Student's Fitness to Practise. The Safeguarding Panel shall have final authority in relation to acceptance or rejection of the person's application for a place at the University.

8.2 FtP cases relating to current students

8.2.1 Where the University becomes aware of matters which might impact adversely on the Fitness to Practise of a currently registered student, the matter must be referred promptly to the Dean of Faculty in which the student's programme of study is based.

8.2.2 If, on considering initial information, the Dean considers there is a case to answer she/he will nominate an Investigating Officer, who shall gather relevant evidence and information on the matter. This may involve interviewing the student who is the subject of the concerns, the person(s) who raised the concerns, and any material witnesses or other persons that the Investigating Officer believes may assist the investigation.

8.2.3 If, after considering the initial information, the Dean considers that there is a potential risk, either to individuals in the placement setting, or to the independence of the investigation, a student may be removed from placement, without prejudice, while their case is being investigated.

8.2.4 Additionally, in line with the Principles set out in 2.2, it may be appropriate to access other University procedures such as the Student Disciplinary procedures should suspension of the student need to be considered.

8.2.5 In requesting a formal interview with the Student concerned, the Investigating Officer shall give reasonable notice and shall make clear:

- The nature of the concerns which have triggered the investigation (in summary form);
 - That the interview is being requested in accordance with the provisions of this Procedure;
 - That the Student has the right to be accompanied by another person during the investigatory interview.
- 8.2.6 The University does not permit students to be legally represented during such interviews, except in exceptional circumstances. For the avoidance of doubt, the definition of “exceptional circumstances” in this context is a matter for determination by the University.
- 8.2.7 The Investigating Officer shall arrange for a formal written record of the interview to be taken, with a copy of that record being supplied for information to the Student within 5 working days of the interview.
- 8.2.8 In the event that the Student fails, without good reason, to attend an investigatory interview requested under this Procedure, the Investigating Officer shall be entitled to continue with and conclude the investigation.
- 8.2.9 The investigation process will be given reasonable and appropriate priority, and the Investigating Officer will strive to avoid delay. Even so, the time required to complete the investigation will be influenced by a number of factors including the nature of the concerns raised, the number and availability of potential interviewees/witnesses, and the volume and nature of evidence to be gathered.
- 8.2.10 The Investigating Officer shall produce a report, summarising the findings of the investigation, for consideration by the Dean.

8.3 Implications of failure to engage with the FtP Process

- 8.3.1 In the event that the Student (Applicant or Current Student, as the case may be) fails, without valid reason acceptable to the University, to engage or cooperate with the FtP process, the University shall be entitled to continue with and conclude the FtP process.

8.4 Investigation outcomes and resulting actions

- 8.4.1 If, after consideration of the Investigating Officer’s report, the Dean decides that there is no justification for invoking the FtP Procedures, he/she shall notify the student accordingly in writing, and declare the matter closed.
- 8.4.3 Alternatively, if the Dean is of the opinion that there is sufficient substance to the evidence and the Investigating Officer’s report to justify invoking the FtP procedures, he/she shall refer the matter to a formal Fitness to Practise Panel for consideration at a formal FtP Hearing.
- 8.4.5 The purpose of the FtP Hearing shall be to decide whether, on the balance of probabilities, the student has failed to meet or maintain the relevant professional standards of conduct for awards that lead to a professionally recognised qualification and, if so, what action, sanction or penalty should be applied as a consequence.

9. The FtP Hearing Preparation

9.1 Composition of the FtP Panel

9.1.1 The FtP Panel shall comprise three-five members drawn from the following membership:

- The Dean (or nominee) as Chair;
- A representative of the Student Union, drawn from its elected Officers;
- Representative from a Placement Provider;
- A Head of Department
- A Subject Lead

9.1.2 The Dean shall have discretion to nominate a substitute for any of the University members of the FtP Panel in the event of their unavailability. Persons who have been affected by or involved in dealing with the matters which have triggered the FtP Hearing shall not normally be eligible to serve on the FtP Panel.

9.1.3 A member of Faculty staff shall act as Clerk to the Panel for administrative purposes, including the handling of formal communications between the parties involved in the FtP Hearing.

9.2 Initial notification

9.2.1 The Student shall receive a written notice from the University requesting him/her to attend the FtP Hearing. That notice shall:

- be issued at least 10 working days before the date of the FtP Hearing;
- state the scheduled date, time and location of the FtP Hearing;
- give a description of the concerns which have called into question the Student's Fitness to Practise and which the hearing has been convened to consider;
- state the names of the members of the FtP Panel;
- be accompanied by a printed copy of these Procedures.

9.2.2 If the Student wishes to object to any member of the FtP Panel, he/she must do so in writing to the Dean, stating the reason for objection. The written objection must be received by the Dean at least 5 working days before the date of the FtP Hearing. The Dean has discretion to uphold or reject any such objection. In the event that the Dean upholds such an objection, he/she shall arrange for the Panel member in question to be replaced.

9.2.3 Copies of any written witness statements or documentary evidence that the University intends to present for consideration by the FtP Panel shall be provided to the Student at least 5 working days before the FtP Hearing, along with the names of any witnesses that the University intends to call at the FtP Hearing.

9.3 Implications of non-attendance by the Student

9.3.1 If the Student cannot attend the FtP Hearing due to illness or other extenuating circumstances, he/she must inform the Chair of the FtP Panel (via the Secretary) as soon as possible. Supporting evidence, such as a

medical note, will normally be required. In such circumstances, the Chair of the FtP Panel may, at his/her discretion, decide to re-schedule the FtP Hearing.

- 9.3.2 In the event that the Student fails to attend an FtP Hearing, the Hearing Panel shall be entitled to proceed with the Hearing and reach a conclusion in the Student's absence.

9.4 Right of the Student to be accompanied at the Hearing

9.4.1 The Student is entitled to be accompanied at the FtP Hearing by one other person. The role of the friend is to act as an observer, give moral support but he/she may speak with the permission of the Chair. This person may be a friend, partner, parent, Student Union Adviser or any other person not acting in a legal capacity. A 'friend' cannot be a member of staff because this may put them into a position of conflict of interest and their relationship with the student may be compromised. The role of the friend is not to be an expert witness. The University does not permit students to be legally represented at FtP Hearings, except in exceptional circumstances. For the avoidance of doubt, the definition of "exceptional circumstances" in this context is a matter for determination by the University.

9.4.2 The Student must inform the Chair of the FtP Panel (via the Secretary) of the name and capacity of any person accompanying them to the FtP Hearing, at least 3 working days before the FtP Hearing.

9.5 Calling of witnesses by the Student

9.5.1 The Student is entitled to call witnesses to give evidence at the FtP Hearing in support of their case. The names of any such witnesses must be notified in writing to the Chair of the Panel (via the Secretary) at least 3 working days before the date of the FtP Hearing.

9.5.2 To assist the conduct of the FtP Hearing, witnesses called by the Student should, where possible, provide written statements of the evidence they intend to give. Such written statements must be submitted to the FtP Panel by the Student in advance of the FtP Hearing.

9.6 Submission of evidence by the Student

9.6.1 The Student is entitled to submit relevant documentary evidence (including witness statements) in support of their case. The student must submit any such evidence at least 3 working days before the FtP Hearing.

9.6.2 The Chair of the FtP Panel has discretion over whether to allow the introduction of further evidence at a later time.

10. Conduct of the FtP Hearing

10.1 Sequence of events

10.1.1 The FtP Panel will convene at the time and place indicated in the notice sent to the Student.

10.1.2 The Secretary to the FtP Panel shall take formal notes of the proceedings.

- 10.1.3 The Chair of the FtP Panel shall manage the FtP Hearing and ensure proper and reasonable conduct of those taking part. The Chair has the power to postpone, continue or adjourn the FtP Hearing and to limit the length of time of the FtP Hearing, the number of witnesses called or the questions asked.
- 10.1.4 A description of the matters which have given rise to the concerns over the Student's Fitness to Practise, and of the evidence produced by the Investigating Officer's investigation, shall be presented to the FtP Panel by a University Representative. This may or may not be the Investigating Officer. The University Representative may call witnesses to give evidence.
- 10.1.5 The Student shall then have the opportunity to respond to the matters raised and to the case as presented by the University Representative, and may call witnesses in support of his/her case.
- 10.1.6 Witnesses called by the University and by the Student may be questioned by the other party, by the FtP Panel and finally questioned again by the party which originally called them.
- 10.1.7 The Student and the University Representative shall then have the opportunity to make final submissions to the FtP Panel, with the Student having the last word, which may include any statement he/she may wish to make in mitigation. Both parties will then be released.
- 10.1.8 The FtP Panel shall then retire to consider the evidence and the arguments presented to them.

10.2 Outcomes

- 10.2.1 The FtP Panel shall decide whether, on the balance of probabilities, the Student has materially failed to meet or maintain the relevant professional standards of conduct for awards that lead to a professionally recognised qualification such that impaired Fitness to Practise is demonstrated, and, if so, what actions, sanctions or penalties should be applied by the University.
- 10.2.2 The FtP Panel will communicate its decision in writing normally within 5 working days of the FtP Hearing.
- 13.2.3 In the event that the FtP Panel concludes that the concerns which triggered the FtP procedures have not been substantiated or are immaterial, or that no material impairment of the Student's Fitness to Practise has been evidenced, the matter shall be closed and the Student shall be notified accordingly.

10.3 Penalties and sanctions where Fitness to Practise is deemed to have been materially impaired

- 10.3.1 In deciding whether to impose a penalty or sanction, and the nature of such penalty or sanction, the FtP Panel shall consider the seriousness of the matter, any mitigating factors, any record of previous FtP issues, and shall be mindful of the need for fairness and proportionality.
- 10.3.2 The sanctions and penalties which may be imposed by the FtP Panel include one or more of:

- a requirement that the Student makes a formal apology to those affected by their issue(s) which triggered the FtP Hearing;
- a written warning which will remain on the Student's record for a period specified by the FtP Panel, and which may be taken into account in the event of further action being taken against the Student under the FtP Code;
- suspension from specific academic or other privileges for a period determined by the FtP Panel;
- suspension from specific aspects of study, such as placements (including exclusion from placement settings) for a fixed period;
- complete suspension from studies and exclusion from University premises or any part of them for a fixed period;
- immediate termination of the Student's studies and formal expulsion from the University on a permanent basis;
- Where none of the above are deemed by the FtP Panel to be appropriate, the FtP Panel shall have discretion to apply some other penalty or sanction which is, in their opinion, appropriate to the nature and severity of the case.

10.3.3 In the event that an FtP Hearing determines that a Student's studies should be terminated and the Student expelled from the University under the provisions of this FtP Procedures, the recommendation must be reviewed and agreed by the Vice-Chancellor before it can take effect.

10.3.4 The University has an obligation, to advise relevant partner agencies of the outcome of an FtP case in order to ensure adequate safeguarding or protection of the public. In addition, where a student is sponsored, supported or employed by a partner organisation and a decision of impaired Fitness to Practise is reached, their sponsor/employer may be notified.

10.3.5 The Student has the right to appeal against the decision of the FtP Panel, as described in the following section of the Procedures.

11. Right of Appeal Against Decisions Taken by a FtP Panel

11.1 Grounds for Appeal

11.1.1 If the Student wishes to contest the decision of the FtP Panel or any sanction or penalty imposed, he/she is entitled to submit an Appeal on any of the following grounds:

- That new and relevant material or evidence has become available which was not previously available for consideration by the Panel; or
- That there was a material procedural error at the FtP Hearing; or
- That the severity of the penalty imposed was disproportionate to the offence.

- 11.1.2 There are no other grounds on which an Appeal will be considered by the University.
- 11.1.3 If the Student wishes to submit an Appeal, he/she must do so in writing to the Dean, detailing the reasons for the Appeal and stating the grounds on which the Appeal is being made.
- 11.1.4 If the Appeal is being made on the grounds that new and relevant material or evidence has become available, the Student must submit that material or evidence to the Dean as part of the written Appeal.
- 11.1.5 The written Appeal must be submitted to the Dean within 10 working days of the date on which the FtP Panel issued written notification of its decision to the student.
- 11.1.6 The Dean shall consider whether the Appeal has been made on one or more of the permitted grounds and if so, whether the evidence or arguments put forward by the student in support of their request for an Appeal have sufficient merit to justify invoking the formal Appeal procedure.
- 11.1.7 If the Dean decides that the Appeal is not made on any of the permitted grounds for appeal, or that the evidence or arguments put forward by the student are not sufficient to justify invoking the formal Appeal procedure, the Student shall be informed in writing that the Appeal has been rejected on that basis, and that the original outcome remains unchanged. Such a decision by the Dean is final and there is no further right of appeal within the University's procedures. In such cases, the student will be issued with a Completion of Procedures letter (see Section 11 below)

11.2 Consideration of Appeals

- 10.2.1 If the Dean decides that the Appeal does satisfy one or more of the permitted grounds, the Dean shall refer the matter to an FtP Appeal Panel for consideration as soon as reasonably practical.

11.3 FtP Appeal Panel Composition

- 11.3.1 The FtP Appeal Panel shall comprise three-five members drawn from the following membership:
- The Pro-Vice Chancellor, Formative Education (or nominee) as Chair;
 - Members of the University Operations Team;
 - The President of the Students' Union;
 - A Head of Department
- 11.3.2 The Dean shall have discretion to nominate a substitute for any of the University members of the FtP Panel in the event of their unavailability. Persons who have been affected by or involved in dealing with the matters which have triggered the FtP Hearing or the FtP Panel shall not normally be eligible to serve on the FtP Panel.
- 11.3.3 A member of staff from the Secretariat function shall act as Secretary to the Panel for administrative purposes, including the handling of formal communications between the parties involved in the FtP Appeal Panel.

11.4 FtP Appeal Hearing preparatory steps

- 11.4.1 The student shall be given at least 10 working days written notice of the FtP Appeal Hearing and shall be provided with a copy of the record taken at the original FtP Hearing and any report that the FtP Panel may have prepared for the FtP Appeal Panel.
- 11.4.2 If the Student cannot attend the FtP Appeal Hearing due to illness or other extenuating circumstances, he/she must inform the Chair of the FtP Appeal Panel (via the Secretary) as soon as possible. Supporting evidence, such as a medical note, will be required. In such circumstances, the Chair of the FtP Appeal Panel may decide to re-schedule the FtP Appeal Hearing. In all other circumstances the FtP Appeal Hearing may proceed in the student's absence.

11.5 Conduct of the FtP Appeal Hearing

- 11.5.1 The Student is entitled to be accompanied at the FtP Hearing by one other person. The role of the friend is to act as an observer, give moral support but he/she may speak with the permission of the Chair. This person may be a friend, partner, parent, Student Union Adviser or any other person not acting in a legal capacity. A 'friend' cannot be a member of staff because this may put them into a position of conflict of interest and their relationship with the student may be compromise. The role of the friend is not to be an expert witness. The University does not permit students to be legally represented at FtP Hearings, except in exceptional circumstances. For the avoidance of doubt, the definition of "exceptional circumstances" in this context is a matter for determination by the University.
- 11.5.2 The student must inform the Chair of the FtP Appeal Panel (via the Secretary) of the name and capacity of any person accompanying them to the FtP Appeal Hearing at least 5 working days before the FtP Appeal Hearing.
- 11.5.3 The FtP Appeal Hearing shall not be a re-run of the original case but a review of the original decision based on the grounds of the Appeal that the Student has submitted. The Student will present the grounds on which the Appeal is based to the FtP Appeal Panel. A representative of the FtP Panel will present the grounds on which their decision was based.
- 11.5.4 The Chair of the FtP Appeal Panel shall have discretion to allow the introduction of new evidence during the FtP Appeal Hearing.
- 10.5.5 The Secretary to the FtP Appeal Panel shall take formal notes of the proceedings.

11.6 FtP Appeal Panel Outcomes

- 11.6.1 The FtP Appeal Panel has the power to uphold the original decision of the FtP Panel, overturn that original decision, alter the penalty imposed or order a re-hearing.
- 11.6.2 The Chair of the FtP Appeal Panel shall inform the Student of the Panel's decision (including the rationale for that decision) in writing within 5 working days of the FtP Appeal Hearing. The decision of the FtP Appeal Panel is final and there is no further right of appeal within the University's procedures. This is the end of the University's Procedures.

12. Office of the Independent Adjudicator for Higher Education (OIA)

- 12.1 The OIA is an independent body set up to review individual student complaints against universities in England and Wales www.oiahe.org.uk
- 12.2 If the student is not satisfied with the outcome of the University's procedures he/she is entitled to contact the OIA once the University's internal complaints procedures have been exhausted and the University has issued a Completion of Procedures letter to the complainant.
- 12.3 The OIA must receive a completed Scheme Application form within twelve months of the date of the Completion of Procedures letter.

Fitness to Practise (FtP) Procedures

