



## The Union Advice Service

### Guide to Professional Suitability

The University has a duty of care to respond to professional suitability concerns raised about a student registered on a professional programme. These concerns could be (but are not limited to):

- a. Physical health, mental health, emotional or inter-personal problems
- b. Failed to comply with professional, statutory or regulatory bodies and/or professional accrediting bodies guidance and/or
- c. Failing to act within any statutory frameworks which set out students' professional duties and responsibilities
- d. Breached standards of acceptable conduct (professional or otherwise) such as those set out in the University's 'Student Code of Conduct' and other regulatory bodies.

Please see <https://www.brunel.ac.uk/about/documents/pdf/Professional-Suitability-Procedure-2019-12-12.pdf> page 3 section 3 for explicit examples of concerning behaviour .

#### **What is Professional suitability procedure?**

Suitability procedures are a form of misconduct in relation to professional courses. Professional courses are those which have an occupation-related title, for example Social Worker, Occupational Therapist, Physiotherapist, and Teacher. This will also apply to students on several MSc programmes.

- ✓ Those procedures are governed by [Senate Regulation 14](#) and The University has produced [their own guidance](#) which can be found by searching for "suitability" at Brunel intranet .

#### **What is the difference between professional suitability procedures and other forms of misconduct?**

A clear distinction is made between academic and professional competence and matters of suitability. Competence (both academic and non-academic) is a matter considered under SR6 whereas matters of suitability are not. The Suitability Procedures are separate from the normal academic and professional assessment processes and are independent of the Board of Examiners.

If a case gives rise to both professional suitability and misconduct concerns, the University will normally follow its procedures relating to professional suitability to investigate, consider and determine the outcome **to all the concerns** arising in the case rather than follow separate procedures.

### **I am already registered with the relevant body?**

Students who are already registered with a relevant regulatory or professional body should still ensure that abide by professional requirements of that regulatory or professional body for self-reporting which are associated with professional suitability.

Suitability Procedures can still be instigated even if you are already registered with the relevant body – registration can be revoked as a consequence.

### **Criminal Records disclosure**

Students studying a professional course are required to [disclose relevant criminal convictions](#). Any student found to have concealed or misrepresented past (or present) offences (or deliberately provided misleading, incomplete, or inaccurate information) during the admission or whilst on the course, may be required to **WITHDRAW FROM THE COURSE**.

### **Will a previous conviction or previous access to services make me unsuitable?**

- Not necessarily, it depends on whether the conviction was relevant to what you are studying, for example anything to do with violence will be an immediate concern.
- If you have previously accessed a service as a service user then it would have been in your best interests to declare this at interview stage. If you did not then you need to consider why?
- Intentionally not informing the University can be deemed as being dishonest and is likely to contravene the code of practice you are adhering too.
- The University must be informed of ANY new convictions, new offences for which you have been charged but not convicted and any new cautions, reprimands or warnings you received.

### **I don't understand why they believe I am not suitable?**

Failing some work is not going to get you in a position of unsuitability but your actions or inaction can. For example failing to notify the University of a previous conviction could deem you unsuitable and dishonest. Failing to know when to stop, when your practice may be impaired could deem you unsuitable. Certain behaviours such as inability to accept feedback may be deemed a risk.

Self-awareness and self-reflection are vital skills that are necessary in your professional field.

### **The Suitability Procedure Process**

If you are identified as potentially being unsuitable for your programme, a member of staff investigating the concerns should write to you or ask to meet you, introduce themselves and explain the nature of concerns. You should respond to this letter promptly, providing your statement.

### **Examples of what you can write in your letter are:**

- Whether you admit or deny the allegation(s) of being unsuitable.
- Your explanation of what happened, is the University version of events correct?
- If you are admitting to the allegation:
  - Whether you knew that this was wrong at the time that you did it? Were you approached about the concerns and allowed a chance to improve?
  - Details of why you think this may have happened – were there any other circumstances going on at the time?
  - An explanation of why you believe that you acted this way – if you were experiencing difficult circumstances that may have affected you it is important to explain this. Were you supported by staff, for example your practice educator?
  - Reflection, what have you learnt from this?
  - How can you demonstrate that the problem with your professional suitability won't happen again?
  - If you deny the allegations, explain what evidence you may want to submit to support your case or why evidence used by the University is incorrect or unreliable.
  
- ✓ You may be invited to a meeting to discuss the matter; you do not have to attend, although we would strongly recommend that you do.
- ✓ The College can then decide whether the case should be dismissed or that “that the concern has some substance relating to professional suitability of a kind for which the instigation of an action plan and/or other action deemed appropriate.
- ✓ You will receive a decision letter advising you of next steps of action. If it is decided to investigate your case further, you will again have a chance to respond (within 5 working days) and state own case, comment on the evidence provided or explain any mitigating circumstances relevant to the case.
- ✓ Once the College has considered your response, they can decide to either dismiss the case, or put an action plan in place, or issue a warning or refer you case to the Secretary to the Misconduct and Professional Suitability (MPS) Board for further action.

### **How to prepare a response**

It is often difficult to know where to start in explaining personal and individual circumstances to people you may not know but the most logical way of explaining it would be by the academic year (September – August) in form of a timeframe.

You need to remember:

- That **dates** are vital, try to be clear about when things happened.
- Thoroughly read through the code of practice and refer to the relevant sections to back up your case.
- It is also important that you are clear on how these circumstances have impacted on you directly, what this has meant for you.
- Think about whether you took steps to try and resolve this or if you discussed the problems with anyone.
- If you believe that rules or policies have been breached then you must explicitly specify what rules or policy has actually been broken or not adhered to.
- Are you being reasonable? Try not to be personal, keep professional and remain focused on what you are trying to say.
- Were you supported by your department? Were concerns notified early on so you could improve?
- Draft your statement and ask someone who can be objective or not emotionally involved to read through it.
- Do not assume that people who will look at your case know anything about you; neither will they read between the lines or guess. You need to be as detailed as possible- whilst at the same time making sure you focus on things which are relevant to your case

Once you have prepared as suggested above, write your letter of response ensuring you cover the points mentioned on page 3.

Your personal information will be kept confidentially so it is vital that you explain your side of the story in full and honest manner. Self-reflection and ability to learn from your mistakes are vital and might be seen as mitigating factors.

### **Evidence**

- ✓ Evidence is an absolute necessity; it is important that you get some sort of evidence to back up what you have said. This is sometimes difficult particularly when it comes to a verbal conversation.

- ✓ You need to explain what the evidence shows and how it supports your claim. It may be appropriate to submit progression reports or any meetings that you attended where the concerns were discussed.
- ✓ If you are struggling to get hold of relevant evidence then you need to think outside the box. Think about whom you have talked too or who has witnessed the incident. Think about course colleagues or other people you may have talked to who could provide some form of evidence.
- ✓ If you have evidence in another language then it may be that you are required to get the documents translated which could take some time.

### **Will I have to attend a hearing?**

If one of the College's decisions is to refer your case to the Secretary to the Misconduct and Professional Suitability (MPS) Board for further action, you will be asked to attend a hearing with a Professional Suitability Panel.

Detailed description of the hearings process can be found in paragraphs 46-55 of the [Professional Suitability Procedure](#)

You will be given 10 working days' notice if you are required to attend a hearing and you can be accompanied by a current student, a current academic, or an adviser from the Advice Service. **Please bear in mind we won't be able to attend at short notice. You must tell us if you wish us to attend with you as soon as you receive notification about the hearing from the University. We may not be able to attend at less than 7 days' notice.**

There are in total 5 members who sit on the panel. These consist of 2 senior members of University Staff, often Heads of College and 1 Student Union Officer.

In addition to you, at the hearing there will be:

- 2 qualified community health nurses IF you are registered on the Community Health Programme
- 2 qualified Occupational Therapists IF you are registered on the Occupational Therapy Programme
- 2 qualified Physiotherapists IF you are registered on the Physiotherapy Programme
- 2 qualified Social Workers IF you are registered on the Social Work Programme
- A note taker
- A member of staff from your College acting as College Representative

- Your representative (Advice Service, Brunel staff or Brunel friend).

Please see Appendix 3 of the [Professional Suitability Procedure](#) for full details regarding the Professional Suitability Panels' composition.

The hearing is your opportunity to state your case. It is highly important to be honest. It is a confidential space and any information you tell the panel would not be discussed with anyone else without your permission. You can prepare an oral statement detailing similar information to that of your written response to the Head of College (see above). This may help you to remember everything that you want to get across to the panel.

Hearings can last for a couple of hours. When it is over you will be asked to leave and the panel will make their conclusions which will be **communicated to you usually with 5 days.**

Please make sure you arrive early, dress appropriately and have all your documents with you.

### **What is the standard of proof?**

In all cases considered under the Senate Regulation 14, **the balance of probabilities** is the test that is applied in determining if a concern is sustained.

The balance of probabilities means that the panel will decide what, on base of all evidence, was more probable, i.e. more likely (as opposite to 100% guaranteed) to have happened.

### **Should I disclose difficulties I had at the time in my personal life?**

Yes, If you had particular extenuating circumstances that may have had an effect on you at the time it may be helpful to get a supporting letter from an objective third party.

This could be a doctor, faith leader, coach or counsellor, if they were aware of your personal circumstances at the time. Such persons need to know the allegations and address the issue clearly; otherwise such evidence may be worthless.

Where possible you should discuss the letter with your counsellor or doctor to make sure that they are aware you agree to your personal data being released. These details should include (where possible) confirmation of diagnosis, confirmation of time affected by the situation and an indication of the severity of your condition and the likely impact. It is recommended that you show a draft copy to the Advice Service before submission (you should not however let this cause you to miss the 5 working days deadline).

There are many examples of circumstances which could have impacted on your behaviour, so if you are in any doubt whether you should include this in your response to suitability misconduct allegations, please speak to an Advice service student adviser.

### **What are the potential outcomes after the hearing?**

- The Professional Suitability Panel may find that allegations were proven or that they were not.
- If the allegations are not proven, the case will be dismissed.
- Details of the potential outcomes can be found in paragraph 56 of the [Professional Suitability Procedure](#)
- If your investigation also looked into academic or non-academic disciplinary issues, as opposed to a strictly professional misconduct issue, Panel may in addition impose other academic or non-academic penalties associated with the case.

**If the Panel decided to permanently exclude a student from the University because a concern relating to professional suitability has been proven, the student will normally retain any academic credits they have acquired but no professional award.**

After the hearing, the Panel Secretary will write to you, normally within five working days of the decision, regarding the outcome of the case, setting out the Panel's reasons for the decision.

### **What if I do not agree with the penalty?**

- The appeals process is described in paragraphs 63-70 of the [Professional Suitability Procedure](#)
- You can appeal the decision within **10 working days** of the decision letter. It is highly recommended that you seek advice on this from the Advice Service.

The appeal needs to confirm what basis you are appealing on:

*a. there has been procedural irregularity;*

*b. there was prejudice or bias on part of the decision- maker;*

*c. the decision is unreasonable and/or the sanction or outcome disproportionate*

*d. there is **new** evidence material\* to the case which the student can demonstrate was for good reason not previously reasonably available.*

\*material evidence means evidence which is relevant and meaningful to your case.

We can help you to decide whether appealing is a realistic option and whether you have a case for an appeal.

### **Suspension and/or exclusion- how does that affect me?**

- ✓ Temporary suspension means that you will **not** be allowed to:
  1. Sit such tests or examinations as are scheduled during that period.
  2. Be told information about results / grades, progression to the next level or module choice for the next level
  3. Be informed if you have re-sits
  4. Access and utilise your Brunel email account.
  5. Re-enrol
  
- ✓ Temporary exclusion means that you are not permitted to:
  1. Come onto campus without the prior written permission of the Secretary to the Disciplinary Board.
  2. if you are a final year student, you will **not** be allowed to be informed about results/grades, re-sit questions, or be informed if you have re-sits.
  
- ✓ Students who are temporarily excluded **can**:
  1. Sit exams.
  2. Re-enrol or access their Brunel account.

**Please note:** some students can be temporarily suspended AND excluded at the same time. In such cases, the above restrictions are combined.

If you breach the terms of your suspension and/or exclusion, this will be considered a further potential breach of the Universities rules of Discipline. Therefore a further Disciplinary Procedure might be instigated against you.

**It is vital that you do not come onto campus without permission from the Secretary to the Misconduct and Professional Suitability Board, Ms Liz Racz (01895 265472 / [liz.racz@brunel.ac.uk](mailto:liz.racz@brunel.ac.uk))**

Permission shall normally only be given for the purposes of seeking the advice or support services of the Union, or for the purpose of attending hearings or meetings connected with the investigation into the allegations against you. You will need to give 24 hours' notice of your wish to enter the campus for any reason.

**What about the interaction with professional bodies and codes of conduct?**

- ✓ HCPC- [Health and Care Professions Council](#)
- ✓ COT- [College of Occupational Therapists](#)

- ✓ CSP- [Chartered Society of Physiotherapists](#)
- ✓ NMC- [Nursing and Midwifery Council](#)
- ✓ [National College for Teaching and Leadership - Teachers' Standards](#)

IF your College have decided there is a matter for concern which will be instigated, they are obliged to inform the HCPC/COT/CSP/NMC that your suitability is under investigation. The HCPC/COT/CSP/NMC will do their own investigations and write to you **separately** confirming A) the investigation is in the preliminary stages and B) who has been appointed as your Investigating Officer and how to contact them.

Your College can also:

- Consider whether to suspend you from practice – This is dependent on the nature of the allegations and whether you pose a threat/concern.
- Inform your employer and/or sponsor that your suitability is under investigation – The HCPC/COT/CSP/NMC considers it important and good practice for students to inform their current or prospective employer that they are currently subject to a HCPC/COT/CSP/NMC conduct investigation.
- Inform the Chair of the Board of Examiners that your suitability is under investigation – Whilst a student's suitability is under investigation, all decisions made by the Board of Examiners will be deferred.

### **What advice and help can i expect from the advice & representation centre?**

The Advice Service can help you in the following ways:

- ✓ Help you to understand the process.
- ✓ Check draft letters and oral statements before you submit them.
- ✓ Give advice around what evidence you should submit.
- ✓ Talk through realistic outcomes and what you could expect.
- ✓ Help you to define appeal grounds if you wish to appeal.
- ✓ Support you at the appeal and through the process.
- ✓ Help you decide whether appealing is a realistic option.
- ✓ Help you outline support arrangements which you require.