

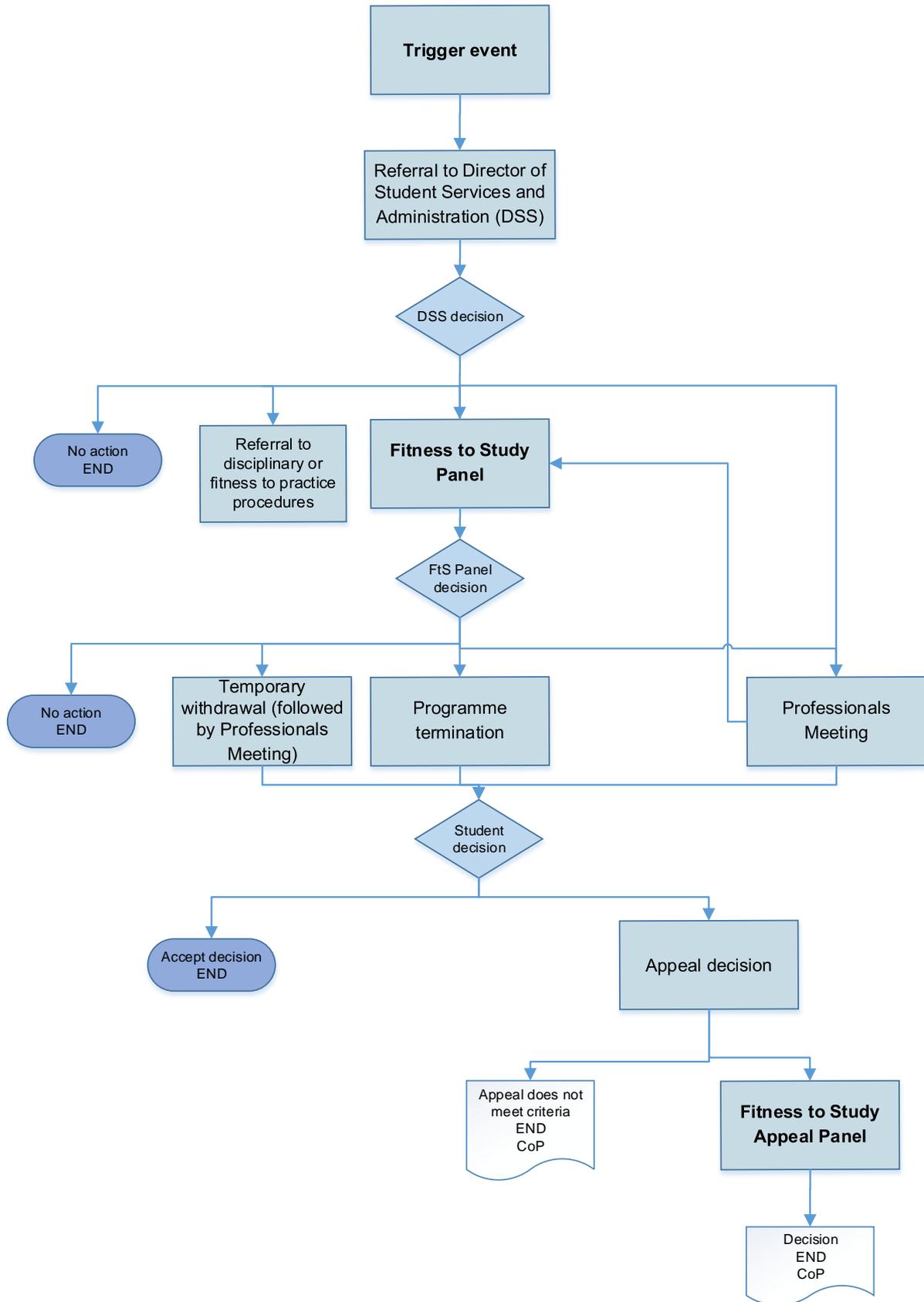
# B5: Regulations for fitness to study

Academic year 2018/19

## Contents

Figure 1: Fitness to study procedures.....	1
Introduction and scope.....	2
Reasonable adjustments.....	2
Exceptional circumstances.....	2
Responsibilities .....	2
Definition of fitness to study .....	3
Managed Support Plan .....	3
Fitness to study and fitness to practise .....	4
Burden of proof .....	4
Standard of proof .....	4
Confidentiality and General Data Protection Regulations.....	4
Trigger events .....	5
Referral by an Authorised Person.....	5
Decision of the Director of Student Services and Administration.....	5
Professionals meeting.....	6
Fitness to Study Panels .....	6
Membership of a Fitness to Study Panel .....	7
Procedure.....	7
Attendance of the student at a Fitness to Study Panel .....	7
Findings and outcomes of a Fitness to Study Panel .....	8
Arrangements following a Fitness to Study Panel .....	8
Appeal against the findings and outcomes of a Fitness to Study Panel .....	9
Grounds for making an appeal.....	9
Investigations by OSCAR.....	9
Fitness to Study Appeal Panels .....	10
Membership of a Fitness to Study Appeal Panel .....	10
Findings and outcomes of a Fitness to Study Appeal Panel.....	11
Intermediate exit award.....	11

Figure 1: Fitness to study procedures



## **Introduction and scope**

1. Fitness to study relates to an individual's capability to participate fully and satisfactorily as a student in relation to academic studies and life generally at the University.
2. The University is committed to supporting student wellbeing and recognises that a positive approach to the management of physical and mental health is crucial to student learning and academic achievement.
3. These *Regulations for fitness to study* apply to the following students, both during and outside of semester:
  - those registered on the Foundation Year and award-bearing programmes delivered by the University
  - those undertaking a Professional Training Year, or who are otherwise undertaking work-based learning
  - those on educational exchanges or who are otherwise studying away from the campus
  - those educational exchange students registered with another higher education institution who are being hosted by the University, other than where the University and the other institution have made and formally recorded separate arrangements
  - those registered to study for the award of academic credit delivered by the University
4. Students registered with one of the University's Associated and Accredited Institutions to study for an award of the University do not come within the scope of these *Regulations* and are subject to the regulations of those Institutions for fitness to study, or their equivalents.
5. Students who are subject to fitness to study proceedings will find it helpful to seek advice and support from the University of Surrey Students' Union.

### ***Reasonable adjustments***

6. Reasonable adjustments to the processes within these *Regulations*, including the extending of deadlines for student responses, will be made upon the production by the student of relevant third party evidence which demonstrates the need for those adjustments.

### ***Exceptional circumstances***

7. In exceptional circumstances it may be appropriate to amend the procedures set out in these *Regulations*, for example, where strict application of the *Regulations* would result in substantial unfairness to the student or the student is in some way at risk because of health or disability. Such cases will be rare and each will be treated on their own merits.

## **Responsibilities**

8. In these *Regulations*, all references to identified senior members of the University, such as the President and Vice-Chancellor, are also to be read as references to their designated Alternates.
9. For the purposes of these *Regulations* Authorised Persons are:
  - the Executive Deans of Faculty
  - the Associate Deans of Faculty

- the Director of the Doctoral College
  - the Disabilities Manager
  - the Head of Student Support Services
  - the Director of Wellbeing
  - the Faculty Student Support Managers
  - the Senior Warden
  - the Head of Security
  - the Chairs of the following Panels and corresponding Appeal Panels:
    - Academic Misconduct
    - Disciplinary
    - The Head of the Office for Student Complaints, Appeals and Regulation (OSCAR) for Stage 1 academic appeals
    - Process Review Appeal for Stage 2 academic appeals
    - Fitness to Practise
    - Complaint
10. For the purposes of these *Regulations* the term ‘Student Services’ is used as an umbrella term to cover those support services for students provided by the University. This encompasses Student Support Services, the Centre for Wellbeing, and the Additional Learning Support (ALS) service. Within the fitness to study process, staff members within Student Services may offer an opinion as to whether it would be appropriate to convene a Panel and/or they may provide evidence about a student’s circumstances for the Panel’s consideration, but they will not determine whether a student is fit to study, as this is the purpose and role of the Panel.

### **Definition of fitness to study**

11. The University defines fitness to study as:
- ‘Being able to participate, with reasonable adjustments where necessary, in the programmes of study and/or research that the University provides and/or in University life in general without negatively impacting the safety or well-being of themselves or others, and with full opportunities to meet the learning outcomes for their programme.’
12. The University encourages students to access the support services available to them on campus, and also to access support from external sources and the University recognises that the accessing of such support is not, of itself, a cause for concern regarding fitness to study.

### **Managed Support Plan**

13. A Managed Support Plan can take many forms including, but not limited to, a Learning Support Adjustment (LSA) and/or an individual agreement between the student and a member of the Centre for Wellbeing (CWB) and/or the ALS service and/or their academic Department. A student may also access support from the Occupational Health service or external agencies.

### **Fitness to study and fitness to practise**

14. Where concerns have been expressed about the fitness to study of a student following a programme of study that, if completed successfully, would enable them to apply to be placed on the Register of a Registration Body, this will normally be dealt with under the terms of the [Regulations for fitness to practise](#).
15. Where concerns have been expressed about the fitness to study of a student who is a Registrant of a Registration Body, this may be dealt with under the terms of the [Regulations for fitness to practise](#). Alternatively, and following advice from the University Secretary and General Counsel, the University may determine to take on the role of 'reporting party' and lodge a complaint with a Registration Body regarding a student who is a full Registrant.

### **Burden of proof**

16. In fitness to study matters it is for the University to show that the student is not fit to study. The burden of proof switches to the student at the appeal stage.

### **Standard of proof**

17. The standard of proof applied by a Fitness to Study or Fitness to Study Appeal Panel is that of the balance of probability; that it is more likely than not something was or was not the case.

### **Confidentiality and General Data Protection Regulations**

18. In fitness to study matters the University seeks to limit access to sensitive personal information to those who require it to enable the student's fitness to study to be established and/or who need it to support the student. The University collects and processes a variety of personal data in order to fulfil relevant student Regulations (see the [Regulations web page](#) for a list of all Student Regulations). This personal data may be provided by the student or collected from other departments within the University or taken from publicly available sources such as social media. More detail on the types of data collected and how it is used to fulfil each Regulation can be found in the Student Regulations Privacy Notice, available at the above link. The University processes personal data for this purpose in its legitimate interests. Some Regulations will require the sharing of sensitive personal data (defined as "special category" data by data protection legislation). The University processes and shares special category data in the substantial public interest and only where it is necessary to enable the University to fulfil its duties of care to the student, other students, or to safeguard third parties. More detail on the types of data collected and how it is used to meet this need can be found in the Student Regulations Privacy Notice, available at the above link.
19. For students who are also employees of an NHS Trust, and other healthcare professionals, the University may also be required to share such personal and sensitive data with the Trust that employs the student or provides learning opportunities to enable them to study or undertake practice and/or research.
20. The University applies its policy statement on [Disclosure, confidentiality and sharing of personal data concerning disability](#) where a student has made a disclosure relating to a disability in their admission to the University or subsequently. Staff will follow the terms of that policy statement under which personal data relating to a student with a disability may only be shared where there are duty of care or health and safety concerns with respect to the student, other students or third parties.<sup>1</sup>

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<sup>1</sup> [Disclosure, confidentiality and sharing of personal data concerning disability](#), paragraph 3.

### Trigger events

21. Trigger events give rise to concerns about a student's well-being, safety, health or behaviour and they may include both emergency and non-emergency situations. Concerns may be expressed by the student themselves, or by a third party, and they will indicate that there is a need to address the student's fitness to study in relation to the definition in Regulation 11 above.
22. Trigger events can occur within Faculties or in other departments of the University, for example, in University accommodation. Trigger events can happen on or off campus and can happen in or out of semester.

### Referral by an Authorised Person

23. In response to a trigger event an Authorised Person may request in writing that the Director of Student Services and Administration initiates the Fitness to Study procedure. Such requests must be accompanied by details of:
  - the trigger event(s) which has(have) necessitated the request
  - a chronology of concerns and associated supporting actions
  - support measures already in place, including details of any Managed Support Plan, with details of how the support measures are not ameliorating the behaviours/health condition

### Decision of the Director of Student Services and Administration

24. The Director of Student Services and Administration acts as the University's procedural gatekeeper for fitness to study matters. They check whether a matter is consistent with the University's definition of fitness to study (see Regulation 11 above). They also check whether the University's regulations and procedures have been followed and whether the document they receive in a referral request is sufficiently complete. As part of the checks that they make the Director will satisfy themselves that the matter is one of fitness to study and should not be regarded as one of either fitness to practise or a disciplinary matter.
25. In determining what further action may be necessary, the Director of Student Services and Administration always consults with the relevant academic Department and with any internal or external bodies as necessary to access expert guidance on what support measures are appropriate.
26. The Director of Student Services and Administration oversees the process for seeking a Managed Exclusion Order whether this is an order that has been requested by an Authorised Person or is an Order that they have sought on their own authority in order to safeguard the student's safety and wellbeing, the safety and wellbeing of others (see [Regulations for Managed Exclusion Orders](#)).
27. Within five working days of receiving a referral from an Authorised Person, the Director of Student Services and Administration will come to one of the following decisions:
  - that no further action is needed
  - that the matter is one of either fitness to practise or is a student disciplinary matter and they will ensure that the issue is transferred to the relevant process
  - that a Professionals Meeting should be held which will explore and implement a support package for the student and will include a Managed Support Plan
  - that a Fitness to Study Panel should be convened by OSCAR

### **Professionals meeting**

28. Professionals Meetings are chaired by the Director of Student Services and Administration. Other meeting attendees will normally include:
  - the student, who may be accompanied at the meeting by a friend or member of the University of Surrey Students' Union
  - a representative, or representatives, from the relevant academic department; this could be the Director of Learning and Teaching, the Personal Tutor, Supervisor
  - a representative, or representatives, from relevant internal or external specialist agencies; this could be the Centre for Wellbeing, or Additional Learning Support
29. The student will be provided with five working days' notice of the Professionals Meeting and will be provided with details of the purpose of the meeting and the names and professional titles of all attendees.
30. The student may provide a written statement to the Professionals Meeting, or they may attend in person or via Skype or telephone. If the student is too ill to attend, the meeting can proceed in the absence of the student, in which case the student's friend or USSU representative can attend as a witness. If the student's non-engagement in the process appears to be motivated by a desire to stall proceedings or itself leads to further concerns about the student's fitness to study, the Director of Student Services and Administration may determine to proceed to a Fitness to Study Panel.
31. A Professionals Meeting will aim to identify if a support package can be provided to assist the student in the continuance of their programme of study. Where it is determined that specific support measures are appropriate and necessary these will be detailed in a Managed Support Plan which will specify responsibilities for monitoring and will also detail timings for review.
32. After a period of temporary withdrawal or exclusion following a Fitness to Study Panel, the Professionals Meeting will identify the arrangements necessary to optimise a successful return to study.
33. The Director of Student Services and Administration has responsibility for monitoring whether a support package, and associated Managed Support Plan, is having the required affect upon the student's behaviours or health concern in the timescales agreed. This process may be iterative and will conclude either:
  - when the behaviours of health condition are no longer a cause for concern, or
  - where the support package is not positively affecting the student's behaviours or health condition, by the convening of a Fitness to Study Panel

### **Fitness to Study Panels**

34. Fitness to Study Panels are convened by the Director of Student Services and Administration and are organised through OSCAR. Fitness to Study Panels conduct their business in accordance with the [Regulations for hearings by panels](#).
35. The Panel hearing will normally be completed within 20 working days of the instruction from the Director of Student Services and Administration. Where it is going to take longer than this, the student will be kept updated as to progress and likely timescales.

***Membership of a Fitness to Study Panel***

36. The membership of a Fitness to Study Panel comprises of three members from the pool of trained panel members as follows:

- a senior member of academic staff nominated by the Vice-Provost (Education) (Chair)
- a member of academic staff
- a sabbatical officer or a student member nominated by the Student's Union

The Panel is supported by a member of OSCAR who is in attendance as Secretary to the Panel.

37. Members of a Fitness to Study Panel should have no current academic or personal connection with the student considered by the Panel.

38. The student's academic School/Department is always asked to provide input to the Panel.

***Procedure***

39. The OSCAR Case Manager compiles a dossier of all relevant documentation for the Fitness to Study Panel. The Case Manager will then write to the student:

- setting out the reasons for the convening of the Fitness to Study Panel, and including the information that accompanied the request from the Authorised Person along with all the documentation considered by the Director of Student Services and Administration during their decision making and all records from any Professionals Meeting
- inviting the student to provide a written response to the instruction from the Director of Student Services and Administration
- reminding the student that it would be advisable for them to seek advice and support from the University of Surrey Students Union (USSU) and that a friend or a USSU representative will be able to attend the Fitness to Study Panel hearing to support them should this be the student's wish

40. Should the student provide a written response to the information sent to them by OSCAR, the Case Manager will provide copies of the response for the Director of Student Services and Administration and the Fitness to Study Panel.

41. Where the student or a witness that the student wishes to attend the Fitness to Study Panel hearing is the subject of a Managed Exclusion Order, the OSCAR Case Manager ensures that the terms of the Order enables the student, and any witnesses they have stated that they intend to call to have access to the place where the hearing is to be held.

***Attendance of the student at a Fitness to Study Panel***

42. The University normally expects that a student who is the subject of a fitness to study hearing will attend the hearing and be accompanied or supported by a friend. Where the student does not to attend, the Panel hearing may proceed in their absence. Where there is evidence to show that the student is incapacitated they may request for a friend or USSU representative to attend on their behalf. The student can requests a postponement of a hearing by a Fitness to Study Panel where there are valid reasons supported by appropriate evidence.

43. In circumstances where the student is too unwell to be present at the Fitness to Study hearing, and the illness which prevents their attendance at the Panel forms the basis of the concerns regarding their fitness to study, the Panel will normally make a finding on the facts collated by OSCAR.

***Findings and outcomes of a Fitness to Study Panel***

44. A Fitness to Study Panel may come to one of four findings by normally considering the following questions:
- (i) is the student fit to study now without putting their safety and well-being at risk or that of other students, staff and third parties?
    - if the answer to the above question is 'yes' the process is ended with no further actions needed
    - if the answer to the above question is 'no', the Panel considers a second question;
  - (ii) would a new or amended support package enable a student to immediately continue on their programme without putting their safety and well-being at risk or that of third parties?
    - if the answer to the above question is 'yes', the Panel instruct the Director of Student Services and Administration to convene and chair a Professionals Meeting
    - if the answer to the above question is 'no', the Panel considers a third question;
  - (iii) could the student return to studies after a period of temporary withdrawal/exclusion with a new or amended support package stipulated as a necessity for their return, without putting their safety and well-being at risk or that of third parties?
    - if the answer to the above question is 'yes' the Panel will:
      - specify a period of temporary withdrawal/exclusion and
      - instruct the Director of Student Services and Administration to convene and chair a Professionals Meeting shortly before the period of temporary withdrawal/exclusion concludes. This Professionals Meeting will determine the necessary return to study arrangements.
    - if the answer to the above question is 'no' the Panel will:
      - terminate of the student's registration and
      - inform the student that any future applications to the University will only be considered if they are accompanied by compelling evidence that they are fit to study at the time of application.
45. The findings of a Fitness to Study Panel take immediate effect.

**Arrangements following a Fitness to Study Panel**

46. Following a hearing by a Fitness to Study Panel the Secretary conveys the findings of the Panel to the student and all relevant parties in writing. The student is informed of their right to appeal against the findings of the Panel within the specified time limit

(see Regulation 48 below), and that, if they have no grounds to appeal (see Regulation 50 below), that they may request a Completion of Procedures letter.<sup>2</sup>

47. A Panel decision remains in force until the outcome of any appeal is known.

### **Appeal against the findings and outcomes of a Fitness to Study Panel**

48. Students making an appeal against the findings and/or recommendations made by a Fitness to Study Panel do so by completing the relevant form which can be found on the OSCAR [web pages](#). Appeals must be received by OSCAR within 10 working days of the Panel conveying its findings to the student in writing. If the appeal is received on time it will be assigned to an OSCAR Case Manager.
49. If an appeal is received after the 10 working day deadline the student will be asked to provide any good reasons as to why the appeal is late. The evidence will be considered by two OSCAR Case Managers who will determine whether the good reasons are valid. If the two Case Managers cannot come to an agreement a third Case Manager will be consulted and a majority decision will be made. A decision on the validity of the good reasons will normally be made within five working days of receiving the information. If the good reasons are not deemed valid the appeal will not be considered and the student will be offered a Completion of Procedures letter. If there are valid good reasons the appeal will be accepted and assigned to an OSCAR Case Manager.

### ***Grounds for making an appeal***

50. When making an appeal the student is required to show that they have evidence to demonstrate that one or more of the following grounds apply:
- that the Panel failed to follow the University's regulations and/or procedures or failed to follow them with due care
  - that the Panel has shown bias or prejudice towards the student in reaching its findings and outcomes
  - that relevant new evidence has become available that should be considered and there are valid reasons why it was not available to the Panel at the time
  - that the decision of the Panel was unreasonable and/or the outcome was not proportionate in all of the circumstances

### ***Investigations by OSCAR***

51. When OSCAR receives an appeal against the findings and/or outcome imposed by a Fitness to Study Panel the Case Manager checks whether:
- (i) the appeal has identified the grounds on which it has been made;
  - (ii) the grounds are consistent with Regulation 50 above;
  - (iii) the grounds are supported by relevant evidence.
52. The Case Manager consults with a second Case Manager and if at least one agrees that the appeal meets the requirements set out in Regulation 50 above a Fitness to Study Appeal Panel will be convened.

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<sup>2</sup> A Completion of Procedures letter is a formal written statement issued by the University to a student to confirm that the student has exhausted the University's internal procedures. A Completion of Procedures statement is required before a student can refer a matter to the Office of the Independent Adjudicator.

53. Where both of the Case Managers consider that the appeal does not meet any of the requirements set out in Regulation 50 above the appeal will be dismissed and the Case Manager will write to the student explaining the grounds for the dismissal and that this communication constitutes a Completion of Procedures letter.
54. Where OSCAR has requested the student to provide additional information and the student fails to do so within 10 working days of the request being sent to the student's University email address, the student will be sent a further reminder and warned that their appeal will be closed if a response is not received within a further calendar month.
55. Where OSCAR or the Director of Student Services and Administration considers that an appeal appears vexatious or malicious they refer the matter for review to the University Secretary and General Counsel.<sup>3</sup> Following review, if it is decided that the appeal is vexatious or malicious, the University Secretary may direct that the appeal is dismissed. OSCAR will inform the student and issue a Completion of Procedures letter.

### **Fitness to Study Appeal Panels**

56. Fitness to Study Appeal Panels are convened by OSCAR and conduct their business in accordance with the [Regulations for hearings by panels](#). The University aims to complete a fitness to study Appeal Hearing within 20 working days of the appeal being lodged. Where it is going to take longer than this, the student will be kept updated as to progress and likely timescales.

### **Membership of a Fitness to Study Appeal Panel**

57. The membership of a Fitness to Study Appeal Panel comprises of three members from the pool of trained panel members as follows:
  - a senior member of academic staff nominated by the Vice-Provost (Education) (Chair)
  - a member of academic staff
  - a sabbatical officer or a student member nominated by the Students' Union

The Appeal Panel is supported by a member of OSCAR who is in attendance as Secretary to the Appeal Panel.

58. Members of a Fitness to Study Appeal Panel should have no current academic or personal connection with the student (or students) considered by the Panel. Members of the Appeal Panel should not have been members of the initial Fitness to Study Panel.

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<sup>3</sup> The Office of the Independent Adjudicator defines examples of vexatious appeals as including: those that are obsessive, harassing or repetitive; insistence on pursuing non-meritorious appeals and/or unrealistic, unreasonable outcomes; insistence on pursuing meritorious appeals in an unreasonable manner; appeals which are designed to cause disruption or annoyance; demands for redress which lack any serious purpose or value.

***Findings and outcomes of a Fitness to Study Appeal Panel***

59. A Fitness to Study Appeal Panel may come to one of five findings:
- (i) that the findings of the Fitness to Study Panel should be confirmed and the appeal dismissed;
  - (ii) that there has been a failure to follow the University's regulations and/or procedures or to follow them with due care such as to deny the student a fair hearing;
  - (iii) that there was bias or prejudice towards the student in the way the Fitness to Study Panel reached its findings or in other aspects of the fitness to study procedure;
  - (iv) that relevant new evidence that was not available to the Fitness to Study Panel at the time for valid reasons should be taken into account;
  - (v) that the decision of the Fitness to Study Panel was unreasonable and/or that the outcome was not proportionate with the evidence presented in all of the circumstances.
60. Where the finding is as in (ii), (iii) (iv) and/or (v) above the Fitness to Study Appeal Panel may:
- direct that the matter be heard anew by a differently constituted Fitness to Study Panel
  - substitute the findings of the Fitness to Study Panel with its own findings
  - or, where the unfairness to the student is extreme, nullify the findings of the Fitness to Study Panel, end the fitness to study procedure and, if relevant, reinstate the student
61. Following a hearing by a Fitness to Study Appeal Panel the Secretary conveys the findings of the Panel to the student and all relevant parties in writing. The Secretary's letter also states that it constitutes the completion of the University's procedures and that the student can request a review of the University's decision by the [Office of the Independent Adjudicator](#).

**Intermediate exit award**

62. Where a student's registration is terminated as a result of a Fitness to Study or Fitness to Study Appeal Panel hearing, the Director of Student Services and Administration ensures that the student receives any intermediate exit award to which they are entitled and a copy of their transcript or its equivalent.