

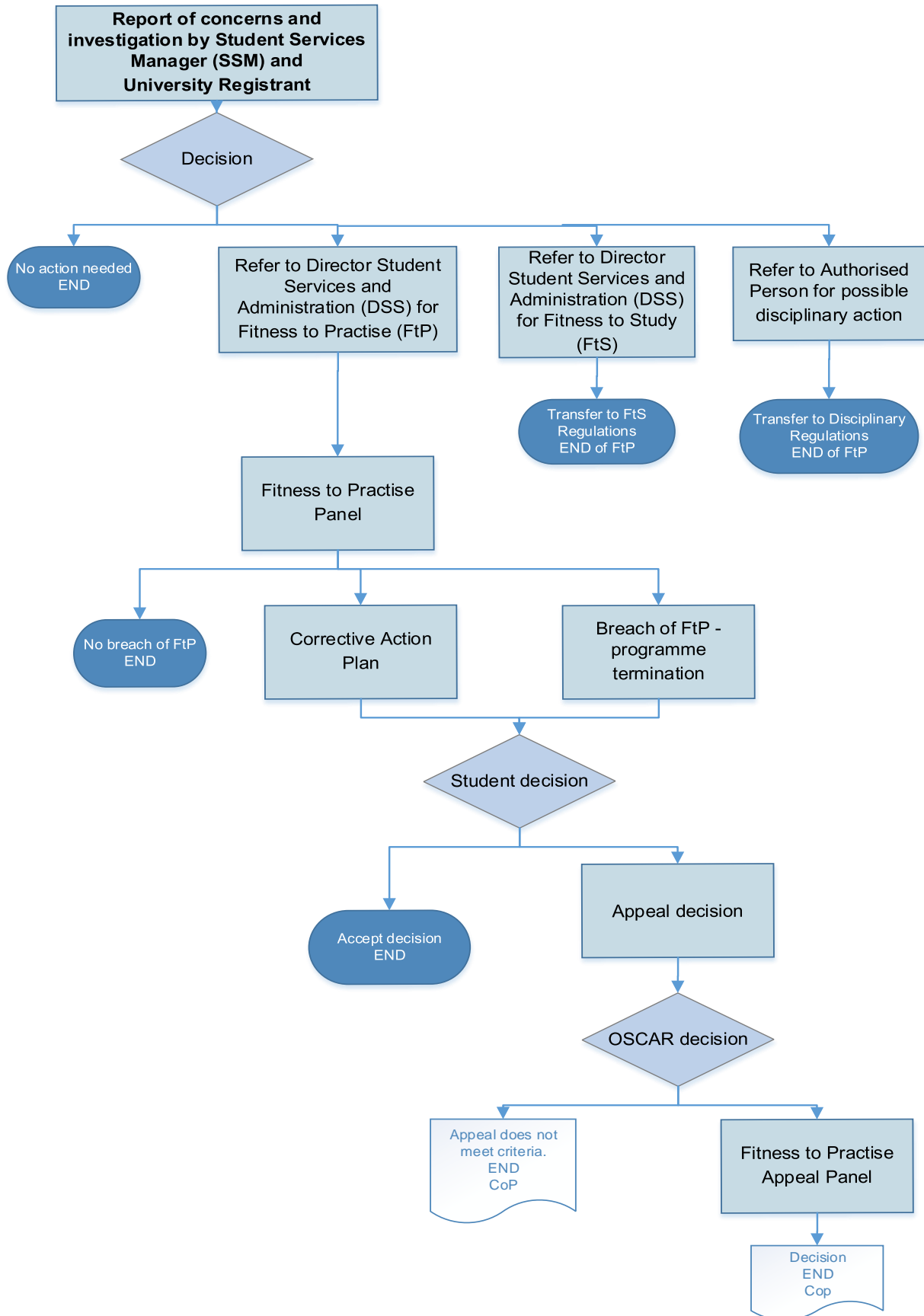
B6: Regulations for fitness to practise

Academic year 2018/19

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Figure 1: Fitness to practise procedures



Introduction and scope

1. The scope of these *Regulations for fitness to practise* is limited to students studying at the University on programmes of studies that require them to undertake a period of clinical and/or professional experience and which lead to eligibility to apply for Registration with a Registration Body. Such programmes of study will either require Registration with a Registration Body or will lead to eligibility to apply for Registration with a Registration Body.
2. Students registered with one of the University's Associated and Accredited Institutions to study for an award of the University that leads to eligibility to apply for Registration do not come within the scope of these *Regulations* and are subject to the regulations of those institutions for fitness to practise, or their equivalents.
3. The University may determine, following advice from the University Secretariat, to take on the role of "reporting party" and lodge a complaint with a Registration Body regarding a student who is already a full Registrant with a Registration Body.
4. Students who are subject to fitness to practise proceedings will find it helpful to seek advice and support from the University of Surrey Students' Union.

Reasonable adjustments

5. 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

6. 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

7. 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.
8. 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 service.

Definition of fitness to practise

9. Registration of a person onto the relevant Registration Body's Register constitutes a formal and public statement that the person meets the Professional Body's standards for their training, professional skills, behaviour and health and is fit to practise. The University is not a Registration Body. Some Registration Bodies rely on statements and declarations made by the University when admitting students onto the Register that they maintain. In other cases, Registration Bodies accept statements and declarations by a member of University staff who is a Registrant of the Registration Body. A list of the Registration Bodies with which the University works is provided below.

- [British Psychological Society \(BPS\)](#)
- [General Medical Council \(GMC\)](#)
- [Health and Care Professions Council \(HCPC\)](#)
- [British Association for Behavioural and Cognitive Psychotherapies \(BABCP\)](#)
- [Nursing and Midwifery Council \(NMC\)](#)
- [The Royal College of Veterinary Surgeons \(RCVS\)](#)

Definition of professional behaviour

10. The University requires that students following those programmes which include a placement in a clinical or professional setting and either require or lead to eligibility to apply for Registration by a Registration body, behave at all times in a manner that:
- (i) conforms to the relevant code of professional conduct or practice including the Registration Body's requirements with respect to the use of social media; and;
 - (ii) is consistent with the behaviour required by the relevant profession and by the employers of such professional staff; and;
 - (iii) does not jeopardise or put at risk the welfare, wellbeing, or safety of either themselves and/or others.

Together, items (i), (ii) and (iii) above constitute the University's definition of professional behaviour for the purpose of these *Regulations*.

Admission to a programme that leads to professional Registration

11. Offers for programmes that lead to eligibility to apply for Registration may be conditional upon:
- satisfactory health and fitness for practice screening
 - references
 - Disclosure and Barring Services (DBS) clearance or equivalent
12. The University may contact applicants for a programme that leads to eligibility to apply for Registration, to confirm the information that has been provided and to check with the applicant that they have understood the requirements of the particular Registration Body.

Burden of proof

13. In fitness to practise matters it is for the University to show that the student has breached the University's requirements for professional behaviour. The burden of proof switches to the student at the appeal stage.

Standard of proof

14. The standard of proof applied by a Fitness to Practise or Fitness to Practise 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

15. In fitness to practise matters the University limits access to sensitive personal information to those who require it to enable the student's professional behaviour 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.

16. For students who are undertaking Regulated Activity¹ within the health and social care sector (including with charitable organisations), either because they are employed to do so, or because they are undertaking a placement, the University will be required to share such personal and sensitive data with the employing organisation or placement provider.

Concerns regarding fitness to practise

17. Where there is concern that a student may have behaved in such a way as to have failed to observe the University's requirements for professional behaviour, as set out in Regulation 10 above, the University will report the matter to the relevant Executive Dean of Faculty and the relevant Head of School and will investigate it as a matter of urgency.
18. Anonymous allegations will be investigated on a case by case basis.
19. Where a student notifies the University that they wish to be legally represented at any stage of this process, the University will be similarly legally represented. In these circumstances it may take longer to convene meetings.

Withdrawal from a placement, Extra Mural Studies; and a possible application for a Managed Exclusion Order

20. Where a student is undergoing or is about to undergo a clinical or professional placement and an allegation is made that they have not observed the University's requirements for professional behaviour the student may be withdrawn from the placement on the authority of the relevant Head of School. The University will liaise as necessary with the placement provider or employing organisation to determine actions on suspension from work, and where the student is later permitted to re-join their programme, on the resumption of work as placement hours will need to be completed.
21. Students whose programme includes a requirement to complete Extra Mural Studies (EMS) will be advised that, for the period of their withdrawal from professional practise, it will not be possible accrue any hours towards their EMS.
22. In the circumstances outlined in Regulation 20 above an application may be made to the Vice-Provost for a Managed Exclusion Order while the allegation is being investigated (see [Regulations for Managed Exclusion Orders](#)).

¹ In the context of work with children and vulnerable adults, Regulated Activity is 'work that a barred person must not do'. See [Regulated Activity in relation to Children: scope. Factual note by HM Government Safeguarding](#).

Withdrawal of a student during fitness to practise proceedings

23. In exceptional circumstances, and following consultation with the University Secretary and General Counsel, the University may proceed with the fitness to practise process after a student has voluntarily withdrawn from their programme or after a student has, for any other reason, been programme terminated. In these circumstances the student will have a reasonable opportunity to provide written representations to the University Secretary and General Counsel as to whether a fitness to practise process should be undertaken and the University Secretary and General Counsel's decision in this regard shall be final. If the University Secretary and General Counsel's decision is to proceed with the fitness to practise process, the process will then follow the usual procedures set out in these *Regulations* as far as reasonable practicable.

Fitness to practise concerns raised following completion of academic credits

24. If fitness practice concerns are raised in the period between the successful completion of academic credits and the usual Registrant sign-off onto the relevant Professional Body Register, the University will be advised by the University Secretary and General Counsel as to whether a fitness to practise process should or should not be followed. In these circumstances the student will have a reasonable opportunity to provide written representations to the University Secretary and General Counsel as to whether a fitness to practise process should be undertaken and the University Secretary and General Counsel's decision in this regard shall be final. If the University Secretary and General Counsel's decision is to proceed with the fitness to practise process, the process will then follow the usual procedures set out in these *Regulations* as far as reasonable practicable. If the University Secretary and General Counsel's decision is to not proceed with the fitness to practise process, the student will be offered a Completion of Procedures letter.²

Faculty investigation

25. Allegations that a student has failed to observe the University's requirements for professional behaviour, are normally investigated by the Student Services Manager for the relevant Faculty on behalf of the Executive Dean.
26. The Student Services Manager works in consultation with a member of the University academic staff who is a Registrant of the relevant Registration Body, and who is also independent of the student. The role of this Registrant in the investigation is to:
- confirm which Professional Body's professional conduct or practise code is applicable
 - advise on the matters that need to be checked and the information that needs to be gathered
 - attend the meeting with the student and the Student Services Manager and advise on any professional protocols that should be observed for such a meeting
 - advise once all of the information is gathered on the most appropriate outcome as detailed in Regulation 30 below

² 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.

27. Within five working days of receiving the allegation, the Student Services Manager will write to the student to inform them:
- (i) that an allegation has been made about their professional behaviour
 - (ii) about the nature of the allegation and that it is being investigated as part of these *Regulations* (a copy of which will be supplied to the student)
 - (iii) which Registration Body's professional conduct or practice requirements are applicable (a copy of which will be supplied to the student)
 - (iv) invite the student to a meeting with themselves and the assisting Registrant
 - (v) that the student may provide a written response to the allegations within 10 working days of the Student Service Manager's letter
 - (vi) that the student can obtain advice and support from the University of Surrey Students' Union and/or the student's own professional association or trades union
28. Ahead of the meeting the student will be provided with five working days' notice and will be advised as to who will be present at the meeting and informed that they may be accompanied at the meeting by a friend or representative of the Students' Union or a representative of their own professional associated or trades union. The student may attend the meeting via telephone or Skype.
29. The Student Services Manager will aim to complete their investigations as quickly as is possible and as is consistent with thoroughness and due process; this will normally be within 20 working days. Where it takes longer than 20 working days, the student will be informed of this and the reasons why.
30. The outcome of the investigation will be one of four findings:
- (i) that no further action is necessary and the issue is closed;
 - (ii) that no further action is necessary under the [Regulations for fitness to practise](#) but that a recommendation is made to a named Authorised Person for them to progress this under the University's [Student disciplinary regulations](#);
 - (iii) that the Director of Student Services and Administration is requested to convene a Fitness to Study Panel under the [Regulations for fitness to study](#) as the matter in question is not one of fitness to practise but is serious enough to warrant panel consideration;
 - (iv) that the Director of Student Services and Administration is requested to convene a Fitness to Practise Panel.
31. The outcome from the investigation by the Student Services Manager's will be conveyed in writing to the relevant Head of School/Department the Executive Dean of Faculty and the student.

Role of the Director of Student Services and Administration in fitness to practise matters

32. In fitness to practise matters the Director of Student Services and Administration acts as the University's procedural gatekeeper. In keeping with this role the Director checks that the request from the Student Services Manager for either a Fitness to Study or a Fitness to Practise Panel is accompanied by relevant documentation and is compliant with the relevant University regulations.

33. The Director of Student Services and Administration may request further information from the Student Services Manager and the Registrant adviser but they cannot overrule them. Once any necessary further information has been obtained the Director requests the Office of Student Complaints and Regulation (OSCAR) to convene the Fitness to Practise or Fitness to Study Panel.
34. Where a Managed Exclusion Order has previously been made in connection with a matter involving failure by a student to observe the University's requirements for professional behaviour, and the Director of Student Services and Administration considers that it is in the best interests of the student, their safety and wellbeing, or the safety and wellbeing of others to extend the Managed Exclusion Order they may apply to the Vice-Provost to extend the Order (see [Regulations for Managed Exclusion Orders](#)).

Fitness to Practise Panels

35. Fitness to Practise Panels are convened by the Director of Student Services and Administration and are organised through OSCAR. Fitness to Practise Panels conduct their business in accordance with the [Regulations for hearings by panels](#).
36. 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 Practise Panel

37. The membership of a Fitness to Study Panel comprises of three members from the pool of trained panel members plus an external member 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
 - a Registrant of the relevant Registration Body who is external to the UniversityThe Panel is supported by a member of OSCAR who is in attendance as Secretary to the Panel.
38. Members of a Fitness to Practise Panel should have no current academic or personal connection with the student (or students) considered by the Panel.
39. The Chair of a Panel may request the attendance of witnesses where necessary.

Findings and outcomes of a Fitness to Practise Panel

40. A Fitness to Practise Panel may come to one of three findings:
 - (i) that the student has not breached the University's requirements for professional behaviour, that no further action is required and that the matter is concluded;
 - (ii) that the student has breached the University's requirements for professional behaviour, but that having considered the matter, and taken such advice as the relevant Registration Body has been able to offer, the Panel is satisfied that the breach can be repaired via completion of a Corrective Action Plan and that once remedied, the breach is unlikely to compromise the student's eligibility to apply for Registration (see Regulation 42 below);

- (iii) that the student has breached the University's requirements for professional behaviour and that their programme of study will be terminated as the student cannot continue on a programme that leads to eligibility to apply for Registration.

For each of the three findings above the Panel may additionally impose one of the penalties detailed in the [Student disciplinary regulations](#).

41. The findings of a Fitness to Practise Panel take immediate effect.
42. Where a Fitness to Practise Panel finds that there has been a breach of the University's requirements for professional behaviour that can be repaired (see Regulation 40 (ii) above) the Panel will produce a Corrective Action Plan which will specify what the student needs to do to repair the breach and how the completion of the repair is to be monitored and confirmed.

Arrangements following a Fitness to Practise Panel

43. Following a hearing by a Fitness to Practise 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 46 below), and that, if they have no grounds to appeal (see Regulation 48 below), that they may request a Completion of Procedures letter.
44. When writing to the student the Secretary to the Panel will also explain that subsequent decisions by a Registrant and/or Registration Bodies are made by them independently, and that the Panel's findings in this matter have been made under the University's *Regulations*, not those of the relevant Registration Body, which may take a different view.
45. A Panel decision remains in force until the outcome of any appeal is known.

Appeal against the findings and outcomes of a Fitness to Practise Panel

46. Students making an appeal against the findings, recommendations and/or penalty made by a Fitness to Practise 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.
47. 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

48. 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 or imposing the penalty

- 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 penalty was not proportionate in all of the circumstances

Investigations by OSCAR

49. When OSCAR receives an appeal against the findings and/or penalty imposed by a Fitness to Practise Panel the Case Manager checks whether:
 - the appeal has identified the grounds on which it has been made
 - the grounds are consistent with Regulation 48 above
 - the grounds are supported by relevant evidence
50. 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 48 above a Fitness to Study Appeal Panel will be convened.
51. Where both of the Case Managers consider that the appeal does not meet any of the requirements set out in Regulation 48 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.
52. 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.
53. 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.³ 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 Practise Appeal Panels

54. Fitness to Practise Appeal Panels are convened by OSCAR and conduct their business in accordance with the [Regulations for hearings by panels](#).

Membership of a Fitness to Practise Appeal Panel

55. The membership of a Fitness to Practise Appeal Panel comprises of three members from the pool of trained panel members plus an external member 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

³ 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.

- a Registrant of the relevant Registration Body who is external to the University

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

56. Members of a Fitness to Practise 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 Practise Panel.

Findings and outcomes of a Fitness to Practise Appeal Panel

57. A Fitness to Practise Appeal Panel may come to one of five findings:
- (i) that the findings of the Fitness to Practise 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 Practise Panel reached its findings or in other aspects of the fitness to practise procedure;
 - (iv) that relevant new evidence that was not available to the Fitness to Practise Panel at the time for valid reasons should be taken into account;
 - (v) that the decision of the Fitness to Practise Panel was unreasonable and/or that the penalty was not proportionate with the evidence presented in all of the circumstances.
58. Where the finding is as in (ii), (iii), (iv) and/or (v) above the Fitness to Practise Appeal Panel may:
- direct that the matter be heard anew by a differently constituted Fitness to Practise Panel
 - substitute the findings of the Fitness to Practise Panel with its own findings
 - or, where the unfairness to the student is extreme, nullify the findings of the Fitness to Practise Panel, end the fitness to practice procedure and, if relevant, reinstate the student
59. Following a hearing by a Fitness to Practise Appeal Panel, the Secretary conveys the findings of the Panel to the student and all relevant parties in writing. When writing to the student the Secretary to the Panel will emphasise that subsequent decisions by Registration Bodies are made by them independently, and that the Panel's findings in this matter have been made under the University's *Regulations*, not those of the relevant Registration Body, which may take a different view. 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](#).
60. In consultation with the University Secretary and General Counsel and the University's Data Protection Officer, the University may consider it necessary or appropriate having due regard to applicable data protection laws, to share the findings of a fitness to practice process with relevant regulatory bodies and/or with other higher education institutions.

Intermediate exit award

61. Where a student's registration is terminated as a result of a Fitness to Practise or Fitness to Practise 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.