

# B6: Regulations for fitness to practise

Academic year 2023/24

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## 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.
5. The University is committed to providing a fair, consistent and accessible service. The University believes that everyone who interacts with it has the right to be heard, understood and respected. The University believes that its staff have the same rights, and the University must provide a safe working environment for its staff. The University must also ensure the efficient and effective operation of its work, so that it can provide a good service to everyone. The [Procedure for managing behaviour in respect to Student Regulations and Procedures](#) applies to everyone who interacts or communicates with the University, including students and their representatives and describes types of actions and behaviour that may have a negative effect and what the University is expected to do in these circumstances.
6. The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. The University of Surrey is a member of this scheme. Students, who are unhappy with the outcome may be able to ask the OIA to review their fitness to practise case. Students can find more information about making a complaint to the OIA, what it can and can’t look at and what it can do to put things right here: <https://www.oiahe.org.uk/students>.
7. Normally, students need to follow these *Regulations for fitness to practise* before they complain to the OIA. The University of Surrey will send a letter called a “Completion of Procedures Letter” when students have reached the end of procedures and there are no further steps they can take internally. If a student’s complaint/appeal is not upheld, the University of Surrey will issue them with a Completion of Procedures Letter automatically. If their complaint/appeal is upheld or partly upheld they can ask for a Completion of Procedures Letter if they want one. Students can find more information about Completion of Procedures Letters and when they should expect to receive one here: <https://www.oiahe.org.uk/providers/completion-of-procedures-letters>.

## Reasonable adjustments

8. 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

9. 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**

10. 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.
11. 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 Disability and Neurodiversity.

### **Relationship between the University and registration Body**

12. 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**

13. 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 (as defined in the [Student Social Media Policy](#)), including social media forums that are not public; 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*. Concerns in relation to a student's professional behaviour will likely trigger the fitness to practise process (see regulation 21 below).

## **Criminal Convictions Policy**

14. The [Criminal Convictions Policy](#) should be read in conjunction with these Regulations. A failure to disclose any Relevant Criminal Conviction(s) (whether at application stage or once registered as a student) is taken seriously and could result in the student being expelled in accordance with the [Student disciplinary regulations](#) or found unfit to practise in accordance with these *Regulations*.

## **Admission to a programme that leads to professional Registration**

15. Offers for programmes that lead to eligibility to apply for Registration may be conditional upon:
  - satisfactory health and fitness for practise screening
  - references
  - Disclosure and Barring Services (DBS) clearance or equivalent
16. 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**

17. 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**

18. 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**

19. 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.
20. For students who are undertaking Regulated Activity<sup>1</sup> within the health and social care sector (including with charitable organisations), either because they are employed to

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<sup>1</sup> 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.](#)

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**

21. 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 13 above, the University will report the matter to the relevant Pro-Vice-Chancellor, Executive Dean of Faculty and the relevant Head of School/Department and will investigate it as a matter of urgency.
22. Anonymous allegations will be investigated on a case-by-case basis.
23. Where a student notifies the University that they wish to be legally supported at any stage of this process, the University will be similarly legally supported. 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**

24. 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/Department. 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.
25. 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.
26. In the circumstances outlined in regulation 24 above an application may be made for a Managed Exclusion Order while the allegation is being investigated (see [Procedure for Managed Exclusion Orders](#)).

### **Withdrawal of a student during fitness to practise proceedings**

27. 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 reasonably practicable.

### **Fitness to practise concerns raised following completion of academic credits**

28. If fitness to practise 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 reasonably 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.<sup>2</sup>

### Faculty investigation

29. Allegations that a student has failed to observe the University's requirements for professional behaviour, are normally investigated by a member of Academic Registry for the relevant Faculty on behalf of the Pro-Vice-Chancellor, Executive Dean of Faculty.
30. The Academic Registry staff member 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 Academic Registry staff member 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 34 below
31. Within five University working days of receiving the allegation, the Academic Registry staff member 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 University working days of the Academic Registry staff member'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.
32. Ahead of the meeting the student will be provided with five University 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 association or trades union. The student may attend the meeting via telephone, videocall or Microsoft Teams.

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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.

33. The Academic Registry staff member 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 University working days. Where it takes longer than 20 University working days, the student will be informed of this and the reasons why.
34. 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 OSCAR is requested to convene a Support to Study Panel under the [Regulations for support to study](#) as the matter in question is not one of fitness to practise but is serious enough to warrant panel consideration;
  - (iv) that OSCAR is requested to convene a Fitness to Practise Panel.
35. The outcome from the investigation by the Academic Registry staff member will be conveyed in writing to the relevant Head of School/Department, the Pro-Vice-Chancellor, Executive Dean of Faculty and the student.

#### **Misconduct that may involve police and/or criminal proceedings:**

36. If in the course of their work and enquiries it becomes apparent to an Academic Registry member of staff or a Case Manager that an alleged fitness to practise issue may also constitute a criminal offence they will consult with the Chief Student Officer and/or the Head of the Campus Safety Team to determine whether the matter has been or needs to be referred to the police and whether to continue with their investigations.
37. Where the University and the police or other authorities are simultaneously enquiring into the same alleged fitness to practise issue the University will normally confer with the relevant authorities, subject to any general agreements that have been reached with the police. If, in such a matter it is stated to the University that to continue with its internal procedures will hinder or prejudice an investigation by the police, or criminal legal action, the University will normally suspend its own internal action until advised by the police or the Crown Prosecution Service that their own proceedings have been concluded. A record of communications with the police or Crown Prosecution Service and the University will be kept by the Academic Registry member of staff or a Case Manager.
38. Where the University can be confident that continuing its own internal fitness to practise procedures will not hinder or prejudice simultaneous police or criminal proceedings it will allow its own fitness to practise action to take its course.

#### **Fitness to Practise Panels**

39. Fitness to Practise Panels are convened by and organised by OSCAR. Fitness to Practise Panels conduct their business in accordance with the [Procedure for hearings by Panels](#) which detail how Panels work, including, where relevant, the right of a student to attend a hearing and to be accompanied. It is expected that those asked to attend a hearing will acquaint themselves with the *Regulations*.
40. The Panel hearing will normally be completed within 20 University working days of the conclusion of the investigation. 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***

41. The membership of a Fitness to Practise Panel comprises three members from the pool of trained panel members plus an external member as follows:
- member of staff from the pool of trained Chair persons
  - a member of University 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 University

A member of OSCAR is in attendance as Secretary to the Panel.

42. Members of a Fitness to Practise Panel should have no current academic or personal connection with the student (or students) considered by the Panel.
43. The Chair of a Panel may request the attendance of witnesses where necessary.

### ***Findings and outcomes of a Fitness to Practise Panel***

44. 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 has already been repaired or 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 46 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](#).

45. The findings of a Fitness to Practise Panel take immediate effect.
46. 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 44 (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. If a Corrective Action Plan to repair the breach cannot be identified, the student's programme of study will be terminated, as the student cannot continue on a programme that leads to eligibility to apply for Registration.

### ***Arrangements following a Fitness to Practise Panel***

47. 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 50 below), and that, if they have no grounds to appeal (see regulation 51 below), that they may request a Completion of Procedures letter.
48. 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.

49. 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**

50. 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 University 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. If a student is unable to provide all supporting evidence by the appeal submission deadline (for example, if they are awaiting receipt of a medical letter), then they are still required to submit their appeal within the 10 University working day timeframe (including a complete supporting statement and any available evidence) but may request an extension in respect of the submission of any pending evidence. Such requests should explain the reason the extension is required and be made by [email](#) to OSCAR at the time of the appeal submission.

51. If an appeal is received after the 10 University working days deadline, the student will be asked to provide reasons and accompanying independent supportive evidence as to why the appeal is late. The reasons and supporting evidence will be considered by an OSCAR Case Manager, who will determine whether the reasons are valid. Consultation may take place with other members of staff in complex or unusual cases, and this will be recorded. A decision on the validity of the reasons will normally be made within 20 University working days of receiving the information. If the 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 reasons the appeal will be accepted and assigned to an OSCAR Case Manager.

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

52. 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***

53. 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 52 above
- the grounds are supported by relevant evidence

OSCAR will normally complete these checks within 5 University working days of receipt of the appeal.

54. 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 52 above a Fitness to Practise Appeal Panel will be convened.
55. Where both of the Case Managers consider that the appeal does not meet any of the requirements set out in regulation 52 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.
56. Where new evidence is raised, further investigations may need to be carried out which may require the appeal to be delayed pending the outcome of these investigations and to give the student an opportunity to consider any new information obtained.
57. If at any stage evidence put forward to support the appeal can be shown to have been dishonestly acquired or is itself dishonest, the appeal will be dismissed and the evidence submitted to the University's disciplinary procedures as specified in the [Student disciplinary regulations](#), where applicable.
58. Where OSCAR has requested the student to provide additional information and the student fails to do so within 10 University 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.

### **Fitness to Practise Appeal Panels**

59. Fitness to Practise Appeal Panels are convened by OSCAR and conduct their business in accordance with the [Procedure for hearings by Panels](#) which detail how Panels work, including, where relevant, the right of a student to attend a hearing and to be accompanied. The Appeal Panel hearing will normally be completed within 20 University working days of the decision set out in regulation 51 above. Where it is going to take longer than this, the student will be kept updated as to progress and likely timescales. It is expected that those asked to attend a hearing will acquaint themselves with the *Regulations*.

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

60. The membership of a Fitness to Practise Appeal Panel comprises three members from the pool of trained panel members plus an external member as follows,
  - member of staff from the pool of trained Chair persons
  - a member of University 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 University

A member of OSCAR is in attendance as Secretary to the Appeal Panel.

61. 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**

62. 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.
63. 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 practise procedure and, if relevant, reinstate the student
64. 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](#).
65. 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 practise process with relevant regulatory bodies and/or with other higher education institutions.

### **Reconsideration of an allegation in light of new evidence**

66. It may be appropriate for the University to reconsider an allegation if new evidence emerges which, for good reason, could not have been obtained at the time. In deciding whether it is appropriate to consider an allegation for a second time, the University will consider:
- (i) whether the outcome of the first process has been called into question, and if so why;
  - (ii) the strength and reliability of the evidence;
  - (iii) the length of time that has elapsed and the effect of this on the reliability of any evidence to be considered;
  - (iv) the severity of the alleged offence;
  - (v) the impact on the student;

- (vi) whether leaving the matter unaddressed would impact on matters of fitness to practise, or on any obligations the provider has to professional or regulatory bodies in respect of the particular student's character.
67. Reconsideration of an allegation will only take place in exceptional circumstances and following approval from the Academic Registrar.

### **Intermediate exit award**

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

### **Re-admittance to the University**

69. Students whose registration has been terminated as a result of a Fitness to Practise or Fitness to Practise Appeal Panel will not be admitted to a programme regulated by the same Registration Body. Applications for other programmes (both regulated and non-regulated) will be considered on a case-by-case basis.