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## **KMMS Low-Level Concerns, Fitness to Study, and Fitness to Practise Procedure**

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## 1. Introduction

- 1.1. This document sets out the arrangements for the Low-Level Concerns, Fitness to Study, and Fitness to Practise Procedures.
- 1.2. Throughout the process, students are actively encouraged to seek support as described on the [KMMS Student Portal](#).

## 2. Stages in dealing with concerns

- 2.1. The process follows four stages, all described in more detail in subsequent sections:
  - Stage 1 is the identification or notification of a potential issue or student behaviour which has raised concerns.
  - Stage 2 is the process for establishing and addressing low-level concerns with a view to early resolution at this stage within the School (for example meeting with the Head of Year or nominee).
  - Stage 3 is where there are repeated low-level concerns, lack of engagement with a plan made for early resolution of low-level concerns, or a concern of a potentially more serious nature which requires referral to the Health and Professionalism Committee (HPC)
  - Stage 4 is the referral to formal Student Fitness to Practise Procedures.
- 2.2. Students can be supported at any meetings by one “supporter” who can be a member of staff or student of either University, or a member of either Students’ Union ([Kent Union Advice Centre](#) or [CCSU Advice](#)), . At the Chair’s discretion the student may bring more than one supporter. It is the student’s responsibility to arrange for a supporter to attend. The meeting organiser must be made aware of any additional attendee at least 2 days before the meeting unless the student has been provided with less than 7 days’ notice of the meeting date. In the instances of short notice meetings, the student must make the meeting organiser aware of additional attendees at least 24 hours before the meeting. This ensures that the meeting organiser can inform all parties of the attendance and appropriately share the meeting details and invitations.

- 2.3. Information from any previous concern or case may be introduced, provided there was not a previous decision that there was no case to answer.
- 2.4. The student will be informed in writing if it is foreseeable that previous findings and outcomes will be introduced, and any appropriately redacted Notification forms (previously known as Alert forms) will be provided.
- 2.5. If a student does not accept the outcome of the Health and Professionalism Committee, the student can request for the case to be referred directly to stage 4 where a Formal Investigating Officer will investigate the case as outlined in 6.3.
- 2.6. If a case requires referral to stage 4, the Chair of the Health and Professionalism Committee will consider if Interim Measures are required to minimise potential risk to the student, the public, patients, or other students/staff. The Chair will consult with other areas in the University when relevant to inform their decision.
- 2.7. Interim Measures could include (non-exhaustive):
  - Attendance with conditions (for example increased supervision)
  - Temporary withdrawal of attendance whilst stage 4 is undertaken. This may apply to clinical, non-clinical activities, and/or university facilities.
- 2.8. Students will be informed of any Interim Measures in writing by the HPC. Interim Measures will be reviewed every 20 working days (10 working days if a student has been withdrawn from any form of attendance).
- 2.9. When students are temporarily withdrawn from attendance, they remain registered students and can continue to access online resources and University support services, subject to individual risk assessments. They will continue to be liable for tuition fees. Students will be advised about the option to intermit their studies. If they choose to intermit the investigation will continue, and the intermission policy will apply.
  - 2.9.1 If the student interrupts on health grounds Occupational Health will provide advice as to if the investigation can continue or if it should be paused
- 2.10. At the completion of each stage, the student will be told in writing within 5 working days of the outcome or how the matter will proceed next.

- 2.11. If the student fails to engage with the process or self withdraws and reasonable attempts have been made to contact them, then proceedings will continue in their absence.
- 2.12. If a student formally intermits during an open case the case will usually continue but may be paused. When they re-join the programme, they will be required to continue with the procedures outlined in this document until the case is resolved.
- 2.13. The intention is to complete the procedures as quickly as possible. Stage 4 should be completed within forty-five working days of the referral being made. Should there be any delays in the investigation (for example due to being outside of term time, awaiting receipt of an Occupational Health report or outcome of a court case) the student will be kept informed by a named contact person (usually the Academic Lead for Student Support).
- 2.14. Students will be provided with a summary of concerns in advance of any meeting held at any stage of the procedure. The summary will be shared with the student as soon as practicable, in some cases, such as short notice meetings with high levels of concern, may include within the meeting itself. Appropriately redacted evidence held in relation to the alleged issue(s) will be shared with the student concerned 7 calendar days in advance of any fitness to practise panel they are invited to attend.

### **3. Stage 1 – Identification or notification of a potential issue or student behaviour which has raised concerns.**

- 3.1. A potential concern relating to a student's health or professional conduct may be reported using a Notification form (found on the [KMMS website](#)) from one or more of several sources, including:
- self-referral by the student, for example the declaration of a criminal matter
  - members of KMMS staff, or the staff of either University
  - staff who work in placement provider organisations
  - fellow students
  - the police
  - members of the public

- anonymous complaints.
- 3.1. If there is already a formal investigation by an outside agency, this should be completed prior to investigations under these procedures. It will require a referral to stage 3 and a risk assessment to be completed by the University of Kent Appeals, Conduct and Complaints Office. Under some circumstances, normally where there is concern of risk of harm to self or others, investigations by outside agency and Fitness to Practise may occur concurrently.
  - 3.2. The Student Procedures and Quality Officer will review the Notification and, if necessary, will consult with a member of the HPC to determine if the matter should be referred to a higher stage. If the issue does not indicate a breach of professional standards or a significant concern, the case may be closed, and a record of the decision will be held locally.
  - 3.3. If the Notification raises a concern of non-academic misconduct, it will be referred to the KMMS Non-Academic Disciplinary Procedures for investigation by the University of Kent Appeals, Conduct and Complaints Office (ACCO). ACCO will share the outcome with the Student Procedures and Quality Officer who will consult with a member of the HPC to determine if further action is required as part of these procedures to address any fitness to study/practise concerns arising.
  - 3.4. If the Notification raises a concern of academic misconduct, it will be referred to the KMMS Academic Misconduct Procedures for investigation. Following the outcome, the Student Procedures and Quality Officer will consult with a member of the HPC to determine if further action is required as part of these procedures to address any fitness to study/practise concerns arising.

#### **4. Stage 2 – Establishing and addressing low-level concerns with a view to early resolution at this stage**

- 4.1. The Student Procedures and Quality Officer can refer the student to stage 2 to establish and address low-level concerns. The Student Procedures and Quality Officer is responsible for coordinating the case at stage 2 and may seek input into the management of the case from the KMMS Student Life and Guidance team, student's Head of Year, Programme Director, their

Personal or Clinical Academic Tutor, or other suitable person.

- 4.2. The purpose of the referral to stage 2 is to be supportive in enabling the student to respond to and remediate any low-level concerns before progress is impaired or escalation to stage 3 is required.
- 4.3. This stage may:
  - a. Conclude following discussion(s) with the student.
  - b. Implement support mechanisms including an assessment by Occupational Health Services.
  - c. Be escalated to a higher stage.
- 4.4. The student's Personal/Clinical Academic Tutor may be made aware of the referral to the stage.
- 4.5. An agreed record of the meeting and subsequent decision will be maintained digitally within a secure file only accessible to staff directly involved in the management of this process. The record will form part of the student file and can be considered in conjunction with any future concerns.
- 4.6. If a student declines to engage with the support, or the issue is unable to be remediated, the matter will be referred to the Health and Professionalism Committee (stage 3).

## **5. Stage 3 – Serious or persistent causes for concern requiring referral to the Health and Professionalism Committee**

- 5.1. The Student Procedures and Quality Officer can refer a student case for consideration by the Health and Professionalism Committee (HPC).
- 5.2. The primary intention of any course of action determined by the HPC will be to support the student and their continued medical training towards graduation.
- 5.3. The students PAT/CAT will be informed when the student is referred to stage 3.
- 5.4. Students are not required to report referral to the Group to the GMC in any Transfer of Information process except where the outcome of the Health

and Professionalism Committee has made a recommendation to do so.

- 5.5. In particular, the Health and Professionalism Committee will:
- a. Receive and consider allegations/referrals of students' unprofessional behaviour/poor conduct.
  - b. Receive and consider reports of students' behaviour or performance which may pose a possible risk to patients, the public, colleagues, or themselves.
  - c. Receive and consider reports of students' performance or progress which raises concerns about students' capability for continued training towards being fully qualified doctors.
  - d. Receive and consider reports of consistent low-level concerns which have not been remediated through previous stages of the procedures.
  - e. Consider reports regarding breaches of the Non-Academic Discipline or Academic Misconduct procedures
  - f. Have due regard within its decisions of the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between individuals in accordance with the public sector duty of the Equality Act 2010.
- 5.6. Where serious concerns with immediate patient safety issues are raised and/or concerns about final year students with no time for remediation, these will be referred directly to stage 3 and stage 4 Fitness to Practise Procedures concurrently.
- 5.7. The Health and Professionalism Committee (HPC) will include a minimum of one faculty with current GMC registration and licence to practice. The HPC members will comprise:
- Undergraduate Programme Director (Chair)
  - Year 1-5 Academic Year Leads
  - Academic Lead for Student Support and Raising Concerns (in attendance only)

- Student Procedures and Quality Officer (secretary)
- 5.8. Quoracy for the group will be the Programme Director, the students Academic Year Lead and one other Academic Year Lead. In situations posing high risk to student or patient safety, the Chair of the HPC may take interim action before discussion with the HPC.
  - 5.9. The Health and Professionalism Committee will meet without the student present to review the case and determine the appropriate course of action.
  - 5.10. The student will be informed that their case has been discussed at the HPC and be supported by the Academic Lead for Student Support and Raising Concerns (or nominee who is not an HPC member).
  - 5.11. Following review of the case, the Health and Professionalism Committee will determine one of the following actions:
    - a. The matter can be managed at stage 2, with appropriate support and remediation plans put in place.
    - b. The matter should be addressed at stage 3 through a meeting with the student. This meeting may involve any member/combination of Committee members/third party as deemed appropriate for the case.
    - c. The matter should proceed to stage 4 for formal investigation by a Formal Investigating Officer.
  - 5.12. Where the Committee determines that a meeting with the student is required at stage 3, the student will be informed in writing by the Student Procedures and Quality Officer and be invited to attend.
  - 5.13. If a student declines to attend the meeting, then reasons for the referral and actions to be taken will be discussed and made in absentia.
  - 5.14. The process for a stage 3 meeting with the Student is as follows:
    - a. The student's situation will be discussed, in their presence if they attend, and any evidence that has been submitted in advance will be considered at this time.
    - b. Committee members and the student or representative will have the opportunity to ask clarifying questions.

- c. They will then consider the facts presented in private and, having considered all the circumstances, will reach a decision and communicate it to the student.
  - d. Should additional concerns arise during discussion, this may require the Group to reconvene later. This will be agreed with the student.
- 5.15. The HPC may decide there is no professional capability concern, in which case, the matter is closed and no further action is taken. A record of this will be retained in the case file.
- 5.16. Where the HPC considers that there is a concern it may set a series of actions which can include (but not limited to):
- a. Requiring the student to produce a written reflection on the issue(s), setting out the professional learning from the experience.
  - b. Requiring the student to make a learning agreement to address the issues in practice, and to provide evidence of improvement and reflection.
  - c. A further referral to OH (Occupational Health) for review of fitness to study and reasonable adjustments relating to the learning, teaching and assessment environment including practice.
  - d. Requiring the student to take specified remedial action not otherwise listed.
  - e. Referral to stage 4 Fitness to Practise proceedings.
- 5.17. The student is notified of the decision in writing, normally within five working days of the meeting. The written communication summarises the discussion, records the decision and actions required, as well as options available to the student should they disagree with the decision.

## **6. Stage 4 – Student Fitness to Practise procedures (SFTP)**

- 6.1. Where it is determined by the HPC that there are potential breaches of the threshold for professional standards not manageable at stage 3, they will refer the case to be investigated by a Formal Investigation Officer (FIO).

- 6.2. Students referred to stage 4 will be supported by the Academic Lead for Student Support throughout the process. They will also be directed towards the Student Unions for independent advice.
- 6.3. A Formal Investigating Officer (FIO) will be appointed from a pool of suitably trained staff within KMMS. The FIO will not be the Dean, Deputy Dean for Student Affairs, Programme Director, Personal or Clinical Academic Tutor, or anyone else deemed to have a conflict of interest in acting as the FIO.
- 6.4. The FIO gathers evidence and prepares a report for the HPC. As part of their investigation, they will meet with the student. The student may bring a supporter to the meeting. Notes will be shared after the meeting.
- 6.5. The FIO will aim to complete their investigation and submit their report to the HPC within 20 working days of referral. The student will be informed if this is not possible and updated of the revised timeframe.
- 6.6. The HPC will review the FIO report, usually within 5 working days, and decide on the following:
  - a. There is no case to answer and to close the case.
  - b. The case should be managed at an earlier stage as it does not appear to breach student threshold for professional standards requiring further action at stage 4.
  - c. The issue has likely breached the student threshold for professional standards and should be referred to a stage 4 Student Fitness to Practise Panel.
- 6.7. The student will be informed in writing of the Health and Professionalism Committee's decision.

## **7. Fitness to Practise Panel Hearing**

- 7.1. If the HPC decide to refer the case to FTP panel, the FIO report and associated evidence will be shared with the CCCU Student Governance team, who are responsible for convening the Fitness to Practise Panel hearing.

- 7.2. The student shall be invited to attend a Panel Hearing with at least 7 working days' notice of the hearing, which will include a list of witnesses and evidence that the Formal Investigating Officer intends to call
- 7.3. The student shall be provided with the following:
- a) the Panel membership
  - b) any witnesses the Investigator intends to call to the Panel
  - c) a copy of this Procedure.
  - d) information and evidence that is being considered in determining the Outcome of the case
  - e) options available to respond including the opportunity to submit written representations, provide details of any witnesses that the student intends to call to the Panel Hearing, and associated timeframes for the next steps.
- 7.4. The student will be asked to provide copies of any documents they wish the Panel to consider to the Fitness to Practise Procedure Clerk at least 3 working days prior to the Panel Hearing, along with a list of any witnesses they intend to call. It is the student's responsibility to arrange for these witnesses to attend the meeting.
- 7.5. The student may decline attendance at the Panel Hearing and/or submit written representations to be considered at the Panel Hearing. Where the student or other witness is not able to attend for good reason, an alternative date may be arranged at the discretion of the Chair.
- 7.6. The Fitness to Practise Panel may proceed in the absence of a student, and a decision on the case can be made without the student present should a student not attend a Fitness to Practise Panel.
- 7.7. The student has the right to be accompanied by a "Supporter" who shall normally be a member of staff, a student at either University or Students' Union advisor. The Chair may permit the "Supporter" to speak on behalf of the student if it would assist the Panel Hearing.
- 7.8. The student has the right to question witnesses, challenge witness testimony, dispute facts and circumstances, and question witnesses through the Chair of the Panel.

- 7.9. It is not usually permitted for the student to be represented by a legally qualified solicitor or barrister; however the University may allow a student to be legally represented at a Panel Hearing in exceptional circumstances such as where the seriousness of the allegation(s) and the potential penalty warrant this or where points of law are likely to arise.
- 7.10. Where a student makes a request for a legally qualified representative to attend a Panel Hearing, the Chair shall make the final determination.
- 7.11. The Panel will not have had any prior involvement in the case or the circumstances that gave rise to the fitness to practise concern. The Panel will comprise of the following:
- a) The KMMS Deputy Dean for Student and Staff Affairs (Chair)
  - b) An appropriate external practitioner registered with the GMC
  - c) A student representative from either University (but not a KMMS student)
  - d) A KMMS FIO not previously involved in the case
- 7.12. The Panel will take a 3 part approach:
- Part 1 – on the balance of probability did the facts take place
  - Part 2 – is the student's fitness to practise impaired
  - Part 3 – taking mitigating and aggravating factors into account, what, if any, sanction should be applied.
- The Panel will deliberate in private and reach its decision by a majority vote. A record of the closed session will be kept so that the student can understand the reasoning that has led to the outcome of the Hearing.
- 7.13. The Panel is encouraged to consider all possible outcomes, starting with the least severe Outcome for the student, and may decide one or more of the following ways:
- a) That the Fitness to Practise concern is unsubstantiated and their Fitness to Practise is not impaired
  - b) That the Fitness to Practise concern is substantiated and their Fitness to Practise is impaired
- 7.14. Where the FtP is found impaired, the sanctions that may be applied are contained in Appendix 1 of this Procedure.
- 7.15. The student should expect to receive the written Formal Fitness to Practise Outcome within 5 working days of the Panel Hearing.

7.16. Non-compliance with any sanctions or undertakings issued from a Panel Hearing can result in the matter being re-referred to the Panel for consideration. The outcome under these circumstances are likely to be more severe.

7.17. It is expected that the Fitness to Practise Panel Hearing will usually be completed within 20 working days of the referral to the CCCU Student Governance Team. If this is not possible CCCU Student Governance team will inform and update the student of the revised timeframe.

## **8. Fitness to Practise Review**

8.1. A student who has received a substantiated decision and associated sanction or undertaking arising from this Procedure may submit a Fitness to Practise Review request for a review of the Outcome and/or sanction applied.

8.2. A Fitness to Practise Review request can be made by way of submitting a Fitness to Practise Review form (which is supplied with the Panel outcome).

8.3. A Fitness to Practise Review form shall be submitted within 10 working days of the date the student was notified of the Outcome and/or sanction applied.

8.4. Where a student submits a Fitness to Practise Review form outside of the 10 working days timeframe stipulated in this Procedure, it will not usually be considered and will be deemed invalid unless there is good reason for the delay and is accompanied by supporting evidence for the delay.

8.5. A Fitness to Practise Review may only be made on one or more of the following ground(s):

- a) there has been a demonstrable procedural error or irregularity that occurred, resulting in substantial unfairness to the student
- b) the decision was unreasonable, and the sanctions applied were disproportionate
- c) there was bias or reasonable perception of bias during the Procedure
- d) there are new evidence facts that could not reasonably have been provided, and which would have a material influence on the Outcome and/or sanction applied.

8.6. A student's disagreement with the decision arising from the Fitness to Practise Procedure is not a ground to request a Fitness to Practise Review. Forms submitted based solely on these grounds will be declined.

8.7. Where a Fitness to Practise Review form is submitted, the case shall be referred to the KMMS Dean (or nominee) for consideration. The Dean (or

nominee) should not have had any prior involvement with the case at an earlier stage of this Procedure.

- 8.8. The Dean (or nominee) shall consider the Fitness to Practise Review on the basis of written Fitness to Practise Review papers, the information and/or evidence provided by the student.
- 8.9. Where the student has not satisfied one or more of the ground(s) outlined in paragraphs 8.5 and/or has not satisfied the timeframes stipulated in paragraph 8.3 and/or 8.4, the Review will be rejected, and the student shall receive a Completion of Procedures letter from the CCCU Student Governance Team. The Completion of Procedures shall outline the decision made.
- 8.10. Where a Fitness to Practice Review has not been rejected on the basis of paragraph 8.9, the Dean (or nominee) shall review the case and can:
- a) reject the Fitness to Practise Review and uphold the original decision and sanction applied
  - b) partially uphold or uphold the Fitness to Practise Review and either refer the matter to:
    - a newly constituted SFTP Panel for consideration where the ground relates to bias or a reasonable perception of bias is upheld or the evidence is such that fairness would be better served by forming a fresh panel, or
    - the original Panel where there is new evidence, procedural errors, or a sanction would need to be reconsidered.
- 8.11. In consideration of paragraph 8.10b the Dean (or nominee) shall consider the principles of natural justice and fairness.
- 8.12. Where the decision is made to refer to a Panel, the decision arising from this part of the process will represent the completion of all internal processes and the student will be issued with the Fitness to Practise Review outcome and a Completion of Procedures by CCCU Student Governance Team.
- 8.13. It is expected that a Fitness to Practise Review Outcome will be completed within 10 working days of submitting all relevant sections on the Fitness to Practise Review form. Where there is a need for a Panel to consider the original sanction or create a newly constituted Panel, this may take longer than the timeframes stipulated in this paragraph and the student will be kept informed and updated of the revised timeframe by CCCU Student Governance Team.

## **9. Office of the Independent Adjudicator of Higher Education (OIAHE)**

- 9.1. After receiving a Fitness to Practise Review Outcome, the student has completed the University's internal Procedure and can submit a complaint to the Office of the Independent Adjudicator (OIA) for Higher Education should they remain dissatisfied with the Outcome. The University will issue a Completion of Procedures Letter that the student will need to supply to the OIA.
- 9.2. A complaint must be submitted to the OIA within 12 months of the date of the University's Completion of Procedures Letter.
- 9.3. Where possible, the student should submit their complaint to the OIA as soon as practicable to ensure that, where relevant, a deadline for professional registration or placements does not lapse.
- 9.4. Further details of how to submit a complaint to the OIA will be provided in the Completion of Procedures Letter or Fitness to Practise Review Outcome. The OIA will normally only consider complaints after the University's internal Procedures have been completed.

## Appendix 1: Examples of Sanctions and Undertakings

The list below is a non-exhaustive list of examples of sanctions or undertakings. The following are designed to be illustrative examples, and alternative sanctions and/or undertakings may be applied as appropriate to an individual case:

- A requirement to provide a written apology.
- A requirement to write a reflective piece that demonstrates an understanding of the learning and reflections of the fitness to practise concern that has been substantiated.
- A time constrained action plan and/or formal learning agreement to remedy the concerns raised.
- A formal written warning which will remain on record for a period to be determined by the Panel.
- Recommend, to the Deputy Vice Chancellor, or senior member of staff acting under delegated authority, that the student intermits their studies for a fixed period to address the proven impaired fitness to practise.
- Recommend to the Deputy Vice Chancellor, or senior member of staff acting under delegated authority, the termination of the student's status as a student. Where relevant, KMMS will inform external bodies in line with the professional body or regulatory requirements.