UNIVERSITY OF DUNDEE

SCHOOL OF NURSING AND HEALTH SCIENCES

Fitness to Practise Procedures
October 2014
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Confirmed
SCHOOL OF NURSING AND HEALTH SCIENCES FITNESS TO PRACTISE PROCEDURES

Introduction

1. Nursing and Health Sciences students have a responsibility to develop professional values and conduct, while the School of Nursing and Health Sciences (the School) must provide the opportunities to learn and practise the standards expected and ensure that graduating students are fit to practise. These interlinked responsibilities are set out in the School’s Student Agreement and the Nursing and Midwifery Council (NMC) Guidance on Professional Conduct for Nursing and Midwifery Students. Students of Nursing and Health Sciences sign the Student Agreement on admission and they sign a self-declaration of Good Health and Good Character during the Professional Learning in Practice module in year 1 semester 1, in conjunction with a teaching session about the NMC code and the expectations of students. They sign again as follows:

   at the end of year 1, and it is a condition for progression to year 2 at
   the end of year 2, and it is a condition for progression to year 3
   at the end of year 3, and it is a condition for registration and graduation

   The following may also apply to already registered nurses and midwives pursuing a further register-able qualification.

2. The core standards of professional behaviour that are required of nurses and midwives are set out in the NMC’s Code: Standards of conduct, performance and ethics for nurses and midwives (the Code). The four core principles of the code are:

   ▪ Make the care of people your first concern, treating them as individuals and respecting their dignity
   ▪ Work with others to protect and promote the health and wellbeing of those in your care, their families and carers and the wider community
   ▪ Provide a high standard of practice and care at all times
   ▪ Be open and honest, act with integrity and uphold the reputation of the profession

   A student’s fitness to practise is called into question when their behaviour or health raises a serious or persistent cause for concern about their ability to continue on their course, or to practise as a nurse or midwife after registration. This includes, but is not limited to, the possibility that they could put patients or the public at risk or the need to maintain trust in the profession.

3. In looking at a student’s fitness to practise, the School will take account of issues relating to disability, wider access and additional support needs. In doing so, the School will undertake all reasonable adjustments to enable progression in the course and safe nursing or midwifery practice.
4. The School Fitness to Practise Policy seeks to address all levels of concerns involving students’ behaviour or health. The overriding principles are first that patients and the public (and sometimes the individual student and/or their colleagues), should not be placed at risk, and second that trust in the nursing profession is maintained.

5. The policy permits a range of outcomes from no further action or appropriate notation in a student’s file to a formal Fitness to Practise Committee hearing which has a range of possible outcomes (warnings, conditions or undertakings, suspension for a specific period, and ultimately termination of studies with whatever other penalty ensues – e.g. failure to register). A Fitness to Practise Committee will be convened to consider serious or persistent concerns about a student’s ability to continue on a nursing or to practise after graduation.

**Initial Assessment of Concerns**

6. The School will accept information or concerns about the behaviour of its students from any source, including NHS and University staff, patients and fellow students or from the public. This may be through established feedback mechanisms or through individual approaches. The initial response to concerns will normally be for the student to be interviewed by the appropriate Professional Lead who will report serious or persistent concerns to the appropriate Head of Division.

7. Concerns which may trigger an investigation include criminal conviction; drug or alcohol abuse; aggressive, violent or threatening behaviour; persistent inappropriate attitude or behaviour (e.g. non-attendance or failure to follow educational advice), cheating or plagiarism; dishonesty or fraud; unprofessional behaviour or attitudes (e.g. breach of confidentiality or persistent rudeness to patients or colleagues including during theory blocks); health concerns, particularly where there is a lack of insight and/or refusal to follow medical advice.

8. The Head of Division will liaise with the Professional Lead and School Manager and decide on an individual basis whether these difficulties may impair fitness to practise, and whether any further investigation is needed: if so, they will consider the evidence that would be required by a formal Fitness to Practise Committee, and make recommendations for any additional pastoral support necessary for the student during the investigation.

9. Should the concerns be such that it is unlikely the student’s Fitness to Practise will be impaired, a hearing should be convened ‘under the auspices’ of Fitness to Practise. This hearing should be conducted by the relevant Professional Lead supported by the School Manager. The Professional Lead may offer a student a formal warning at this stage if there is evidence of misconduct but Fitness to Practise is judged not to be impaired. Such a warning will be provided in writing. Rejection of the warning will lead to a formal Fitness to Practise hearing.

10. Where concerns are judged to be of a nature to put patients, colleagues or the student themselves at risk, the Dean of the School of Nursing and Health Sciences may temporarily suspend the student from all or part of their studies, pending a Fitness to Practise hearing. *(BSc Regulations)*

11. Where the issue is judged to be so serious that a full Fitness to Practise meeting is required, an investigator will be nominated by the Head of Division. This will normally be the relevant Professional Lead. The School Manager will help to co-ordinate the investigation, and make any arrangements to provide necessary support for the student.
12. Evidence required by the investigator may include, but is not limited to, a written response by the student to the concerns, the student record, witness statements, reports from practice-based mentors, medical or other expert reports (e.g. from Occupational Health or Disability Services), and police documents.

13. The investigator will present the findings to the Head of Division who, together with another senior academic, will decide whether the concern can be dealt with by supportive measures (e.g. remedial training advice or an action plan) or whether to request the School Manager to arrange a formal Fitness to Practise Committee hearing.

14. The threshold for referral to a Fitness to Practise hearing will be determined on the balance of probabilities as to whether the student’s fitness to practise is likely to be impaired, paying particular attention to the future safety of patients and the public.

Fitness to Practise Committee

15. The Fitness to Practise Committee will be chaired by the equivalent of a Head of Division from either the Medical or Dental School. The University Legal Counsellor will normally be in attendance, together with the School Manager or Administrative Lead who will service the Committee.

16. Membership of the Fitness to Practise Committee will normally include: the Head of Undergraduate Studies, one further senior academic with preference being given to one of these being a Professional Lead from one of the other Fields of nursing and, where possible, a senior academic from another School of Nursing, a senior student from a different cohort from the student under investigation, a senior representative from the clinical area; one representative from either the School of Medicine or the School of Dentistry; and a lay user and carer representative. Additional representatives may be co-opted to ensure there is representation from the same field of practice as the student. These arrangements are in accordance with the NMC guidance on the composition of Fitness to Practise panels. None of the members of the Fitness to Practise Committee will have had any previous role in investigating the case. If the Dean has temporarily suspended the student, the Dean will not take any further part in the decision-making. The Fitness to Practise Committee will be quorate with three members present, including the chair and a senior academic. The quorum must comply with the NMC guidance on Fitness to Practise Committee composition.

17. The Committee will meet on an ad hoc basis, when a need is identified, and at the request of the relevant Head of Division.

18. The School Manager will indicate to the student under which heading they are being called, i.e. health and/or conduct, and will provide advice to seek guidance from the student Counsellor, the Student Advisory Service, the University Chaplain and/or the President of the Students’ Association. The student will be invited to ask a representative to accompany them at the hearing, e.g. from a trade union or professional organisation, DUSA, or a friend.

19. The School Manager will invite the student to provide copies of any supporting documentation they wish to be seen by the Committee in advance of the hearing, and will ensure that members of the Committee and the student receive copies of all the papers.
20. The Fitness to Practise Committee will consider the matter in three stages:

- After hearing the evidence presented by the Professional Lead (or their nominee), the student, and any witnesses, the Committee must decide whether the facts alleged have been proven (using the civil standard of proof “on the balance of probabilities”);
- If so, it must then consider and decide whether on the basis of these facts fitness to practise is impaired;
- If so, it will then consider and decide what action should be taken, balancing patient and public safety, the interests of the student, and the need to maintain trust in the nursing profession. The Committee will consider the degree of insight shown by the student and any mitigating factors. Sanctions will be considered in order of increasing severity to determine the minimum needed to protect patients and public.

21. The outcome of the Fitness to Practise hearing may therefore be:

- No further action;
- Student receives a warning about misconduct;
- Student fitness to practise is judged to be impaired and they receive a sanction.

22. Sanctions may be one of the following or a combination, as appropriate:

- **Warnings:** either verbal, written or final written

  The timescales during which warnings will remain on the student’s file will be as follows:

  - Verbal Warning - 6 months
  - First Written Warning - 1 year
  - Second, or first and final written warning - 2 years.

- **Conditions or undertakings;**
  - Suspension/withdrawal from studies for a specific period (health related matter);
  - Termination of studies

23. The reasons for the decision, the duration of any sanction (where appropriate), and any plans for a future formal review of fitness to practise, will be set out in writing and communicated to the student by the Convener of the Committee. Where an outcome other than ‘no further action’ is recorded, a note will be held on the students file until the expiry of the sanction has occurred.

24. A student will not be eligible to progress in the course or to graduate until the outcome of the Fitness to Practise Committee is known. Every effort will be made to ensure the process is carried out within a reasonable timescale. Students will be alerted at the outset should there be valid reasons for the process to be prolonged.
25. It is important for students to note that when concerns are formally passed to the Fitness to Practise Committee, the matter becomes disclosable to the NMC, or any similar body, e.g. at the time of registration. Any formal warnings about misconduct made, may be disclosable. Other concerns that are dealt with through the internal disciplinary procedure are not disclosable but will be retained on the student record throughout the course.

Fitness to Practise Appeals Committee

26. Any student judged unfit to practice by the Fitness to Practise Committee will have the right of appeal. The student will have 21 working days after they have received the decision from the Dean to submit an appeal.

27. The decision of the Fitness to Practise Committee may be appealed only on the following grounds:

- Alleged irregular procedure or incorrect material facts being taken into account;
- Alleged unreasonable exercise of discretion or bias on part of the Fitness to Practise Committee or any one of its members;
- New information being available which could not reasonably have been available to the Fitness to Practise Committee at the time of its consideration.

28. The Appeals Committee will be established by the Director of Academic and Corporate Governance (DACG) and shall include, in its membership, the following: a Convener appointed by DACG, a senior member of staff nominated by the Dean of SNHS and one other senior member of staff from either the Medical or Dental School none of whom will have been previously involved in the case. The University Legal Counsellor will normally be in attendance. A Secretary to the Committee will be appointed from either the Medical School or the Dental School.

29. The student will submit their case for appeal and any related documentation to the Secretary of the Committee, and this will be circulated to the members of the Appeals Committee in advance of the meeting, together with the material submitted to the original Fitness to Practise Committee and the written decision of that committee.

30. The Appeals Committee will first consider whether there are grounds for the appeal. Only if this is confirmed will they proceed to hear the appeal itself.

31. The student may be accompanied to the hearing by a representative, e.g. from a trade union or professional organisation, solicitor, DUSA representative or friend.

32. The Appeals Committee shall be empowered to obtain all such information or opinions as it may consider desirable and may request a representative of the Fitness to Practise Committee to attend the Appeals hearing to provide evidence.

Relationship to University Disciplinary Procedures

33. Concern over the conduct of a non-nursing student at the University of Dundee would normally be considered under University Ordinance 40, which also sets out a right of appeal.

(http://www.somis.dundee.ac.uk/academic/DCA/Discipline/welcome.htm)
In addition, the University has procedures for dealing with matters of plagiarism and academic dishonesty.

(http://www.somis.dundee.ac.uk/academic/Plagiarism.htm).

34. During initial consideration of a concern about a nursing student’s conduct, the School Manager will liaise with the Director of Academic and Corporate Governance to decide the appropriate route for dealing with the concern and identifying support needed for the student. For example, plagiarism in the early part of a course may sometimes be more appropriately dealt with under the University policy, whereas academic dishonesty at a later stage is likely to raise serious questions about fitness to practise.

35. If the matter falls within the potential remit of fitness to practise, it would normally be dealt with under the Fitness to Practise policy, in consultation with the Director of Academic and Corporate Governance.

36. Outcomes of Fitness to Practise hearings are reported to the Senate of the University via the School Board of the School of Nursing and Health Sciences.

References:

1. The Code: Standards of conduct, performance and ethics for nurses and midwives
2. Guidance on professional conduct for nursing and midwifery students
3. NMC Standards of proficiency for pre-registration nursing education
4. NMC Standards of proficiency for pre-registration midwifery education
5. NMC Midwives Rules and Standards
6. NMC Good Health and Good Character: Guidance for Students
7. NMC Good Health and Good Character: Guidance for Education Institutions
   http://www.nmc-uk.org
8. Bachelor of Science Nursing/Bachelor of Science Midwifery Regulations
   http://www.dundee.ac.uk/snm/undergraduate/regulations
Procedure for Conduct of Fitness to Practise Committee

1. The Secretary to the Committee will ensure that the student receives notification of the hearing together with copies of all documents circulated to members of the Committee, and that he/she is aware of the procedure to be followed.

2. Should the student decide not to attend after due notification, the hearing may proceed in his/her absence.

3. The Chair will introduce, by name, and explain the functions of the members of the Committee and those in attendance.

4. The Chair will explain the powers of the Committee.

5. The Chair will ask the Head of Division (or nominee) to make an opening statement. Members of the Committee will then be invited to ask questions to clarify any issues around this statement.

6. The Chair will invite the student (and/or accompanying representative or supporter) to make a statement. The Chair will explain that the Committee would like to hear directly from the student in his/her own words.

7. The Chair will invite the student to answer questions from the members of the Committee. However, they will make it clear that they are not required to answer questions after giving their statement.

8. The Chair will ask any other person(s) called to provide evidence to the Committee to make a brief statement, and will then invite the Committee to ask further questions. Such witnesses will attend only to present their evidence and will then withdraw.

9. The student and any accompanying representative, and the Head of Division (or their nominee), will remain throughout the presentation of the evidence.

10. The Chair has the discretion at any stage to allow reciprocal questioning by the various parties.

11. Once the Chair is satisfied that the Committee has completed questioning and that the student and anyone else present has had a full opportunity to convey information to the Committee, all non-Committee members will withdraw, and will be asked to wait for a short time as indicated by the Secretary.

12. The Committee will discuss the case.

13. If any point requires further clarification, the student or witnesses may be recalled. When the Chair decides, they will be asked to leave the meeting again.
14. The Committee will decide, on the balance of probabilities, whether the facts of the case are proven, and if so whether the fitness to practise of the student is impaired. If it decides that fitness to practise is impaired, the Committee will then consider whether any sanction is to be recommended. The primary purpose of any sanction is to protect patients and public from risk: the level of sanction to be applied will be determined by weighing up the interests of patients and public against those of the student.

15. The Committee Chair will convey the Committee’s decision to the student, with the reasons for the decision, within two working days of the decision being made.

16. The Head of Division and Field Lead will be informed of the outcome.
School of Nursing and Health Sciences Appeals Committee

1. Students who are referred to the Fitness to Practise Committee will have the right of appeal against any decision made by the Committee. Details of the procedure for appeal will be given to the student in the letter notifying the decision of the Committee. The student will have 10 working days after they have received that letter to submit an appeal or to notify the School Manager of the intention to appeal.

2. An appeal may be made on the basis of any of the following:
   (a) mitigating circumstances or other evidence of which the Committee was unaware when it reached its conclusion;
   (b) alleged procedural irregularities in the way the Committee conducted the case;
   (c) perceived bias on the part of the Committee or any member of the School of Nursing and Health Sciences which might have unfairly affected the outcome of the case.

3. The Appeals Committee will be established by the Director of Academic and Corporate Governance (DACG) and shall include, in its membership, the following: a Convener appointed by DACG, a senior member of staff nominated by the Dean of SNHS and one other senior member of staff from either the Medical or Dental School none of whom will have been previously involved in the case. The University Legal Counsellor will normally be in attendance. A Secretary to the Committee will be appointed from either the Medical School or the Dental School.

4. The student will be invited to provide evidence and related documentation in support of the appeal, which will be issued to members of the Appeals Committee in advance of the meeting.

5. The student may bring to the meeting a representative, e.g. an official of a trade union or professional organisation of which they are a member, a solicitor, a DUSA representative or a friend not acting in an official capacity.

6. The Appeals Committee shall be empowered to obtain all such information or opinions as it may consider desirable including the grounds on which the decision appealed against was reached and may request a representative of the Fitness to Practise Committee to attend the appeal hearing to provide evidence.

7. The Convener of the Appeals Committee will introduce by name, and explain the role and function of, each member of the Committee and any others present.
8. The Convener will ensure the student and members of the Appeals Committee have received copies of all related documentation and are aware of the proceedings to be followed and the powers of the Committee.

9. The Convener will invite the student to make the opening statement of the appeal. The representative of the Fitness to Practise Committee, if present, will also be invited to make a statement.

10. Members of the Appeals Committee will be invited by the Chair to ask questions after each statement has been made.

11. The student and the representative of the Fitness to Practise Committee, if present, will also be given the opportunity to ask any questions in response to each other’s statement and to conclude their case with a final summary.

12. The Appeals Committee will make its decision in private. The student may be invited to wait for the decision.

13. In the case of an undergraduate, pre-registration student, the nurse registered practitioner will have the casting vote in any decision having implications for registration.

14. If any point requires clarification, the parties may be recalled.

15. The Appeals Committee will convey its decision in writing to the student and to the Dean.

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Procedure for Conduct of School of Nursing and Health Sciences Fitness to Practise Appeals Committee

1. The Chair of the Appeals Committee will introduce by name and explain the role and function of each member of the Committee and any others present.

2. The Chair will ensure the student and members of the Appeals Committee have received copies of all related documentation and are aware of the procedures to be followed.

3. The Chair will explain the powers of the Appeals Committee and invite the student, and/or any accompanying representative or supporter, to make an opening statement of appeal.

4. The Chair will invite the student to answer questions from the members of the Appeals Committee. However, they will make it clear that they are not required to answer questions after giving their statement.

5. The Chair will ask any other person(s) called to provide evidence to make a brief statement, and will then invite the members of the Appeals Committee to ask further questions.

6. The student will be given the opportunity to ask any questions in response and to make a final summary of their case.

7. All non-committee members will then be asked to withdraw and the Appeals Committee members will deliberate: the student may be invited to wait for their decision.

8. If any point requires clarification the parties may be recalled.

9. The Appeals Committee will come to its decision and convey this to the student and the Dean.