

Professional Suitability Procedures



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University of Chester

Professional Suitability Procedure

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PROFESSIONAL SUITABILITY PROCEDURES

PART 1 - SUBSTANTIVE

I. Introduction and Delegations of Functions

1. Under Article 3.2.7 of the University's Articles of Government, the Vice-Chancellor is responsible 'for the maintenance of student discipline and, within the rules and procedures provided for within these Articles, for suspension or expulsion of students on disciplinary grounds and for implementing decisions to expel students for academic reasons.' Article 10.2 of the Articles of Government states that 'the University Council, after consultation with the Senate and representatives of the students, shall make rules with respect to the students, including procedures for suspension and expulsion.' The Professional Suitability Procedures made by the Council after consultation are set out below.
2. These procedures relate to all students registered on programmes of study that lead to provisional or full registration with an appropriate Professional Body or which confer a professional qualification or entitlement to practise a particular profession or calling; a list of which is at Appendix A. This list may be amended by the relevant Dean of Faculty or the Dean of Academic Quality and Enhancement as necessary.
3. The Vice-Chancellor, Deputy-Vice-Chancellor or other named post holders, including the Dean of Students, may delegate powers and responsibilities, as identified under these Procedures, to a designated alternate (nominee) either generally or in respect of a particular case or in relation to any area of her/his responsibility under these Procedures unless otherwise stated. The expression "Vice-Chancellor" may be therefore be interpreted throughout these Procedures as meaning the Vice-Chancellor of the University, Deputy Vice-Chancellor of the University or their nominee, unless otherwise stated.

II. Objectives of the Procedures

4. The objectives of these Procedures are to:
 - 4.1. promote a high level of professionalism and responsibility in those members of the student body on programmes to which the procedures apply;
 - 4.2. protect and defend the reputations of, and public confidence in, the University and relevant professional bodies;
 - 4.3. develop good relationships between the University and relevant professional bodies, partner organisations and satellite sites, the wider community and beyond;
 - 4.4. discharge the University's responsibility to ensure that all students registered on programmes of study and who are seeking either provisional or full registration with the appropriate professional body maintain the required expectations and standards of professional behaviour, character and health;
 - 4.5. provide an impartial process for dealing swiftly and fairly with professionally unsuitable behaviour.

III. Potential Exclusions from Professional Suitability Procedures

5. These Procedures do not apply to:

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- 5.1. any aspect of a student's academic progression including academic performance, capability and/or practical competence either in theory sessions or whilst on placement, unless concerns come to light about a student's professional suitability on the grounds of conduct or health at the appropriate meeting of the examiners. In that event, these procedures may be initiated in respect of such concerns; or
- 5.2. matters relating to Academic Malpractice where a student has gained, or sought to gain, advantage in assessment contrary to the established conditions under which students' knowledge, abilities or skills are assessed for progression towards, or the conferment of, an award. These matters should normally be dealt with under the 'Requirements Governing the Occurrence of Academic Malpractice by Students in the Course of Assessment' as outlined in the Handbook to Section F of the 'University Quality and Standards Manual'. However, allegations of Academic Malpractice arising by virtue of falsification of the signature of a tutor, mentor or other person may be dealt with under these procedures.
 - a. Where in the course of the Academic Malpractice proceedings it becomes apparent that the student has engaged in behaviour that would normally be dealt with under these procedures, the Academic Malpractice Panel may refer the matter to a Professional Suitability Panel for determination of an appropriate measure notwithstanding any penalty already imposed by the Awards Assessment Board in the matter of Academic Malpractice.

IV. What is Professional Suitability?

6. All members of the relevant profession, including, in some cases, students and/or trainees, are required to register with the appropriate professional body/ies. Compliance with the guidance contained in these procedures will promote, but does not guarantee, registration.
7. A student who is professionally suitable for registration with the appropriate professional body will:
 - 7.1. uphold and comply at all times with the standards of behaviour set from time to time by the relevant professional body/ies whose functions include maintaining and protecting the health, well-being and confidence of the public and regulating those working in the profession, their employers and their education and training. These standards are expressed and prescribed in a variety of ways, including Codes of Conduct and legislative requirements, a list of which is at Appendix A. These expectations include good character and good health;
 - 7.2. not engage in behaviour which is professionally unsuitable by reason of its failure to comply with the above standards of behaviour or which constitutes misconduct as set out in Section V below.

V. What May Constitute Professional Unsuitability?

8. The University may assess the professional suitability of any student subject to these Procedures and apply them to sanction any failure to meet the requirements of professional suitability specified above. Examples of the misconduct referred to in Section IV above are attached as Appendix B. The examples listed are illustrative only, are neither comprehensive nor exhaustive and may be added to or modified as necessary by the Vice-Chancellor.
9. The need for those members of the student body to whom these Procedures apply to be professionally suitable and for them to behave accordingly extends beyond

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University premises, beyond engagement on a placement organised by the University and on any other University business. It extends to cover any misconduct inside and outside the University, including during a student's social life, if that misconduct raises doubt about a student's professional suitability, by for instance:

- 9.1. jeopardizing the reputation of any part or member of the University, the profession and/or a professional body;
 - 9.2. improperly interfering, in the broadest sense, with the proper functioning or activities of the University, or with the lives of those who work or study at the University, or which may otherwise damage the University;
 - 9.3. raising questions about a student's suitability to remain a member of the University and/or to seek registration or continue to be registered with a professional body because s/he poses, or may in the future pose, a danger to members of the public;
 - 9.4. evidencing a student's inability to practise professionally due to misconduct or health problems, including issues relating to drink or drugs.
10. No account shall be taken of any failure to meet the requirements of professional suitability which occurred prior to a student enrolling at the University which has subsequently been revealed, or which is still in the process of being dealt with by other authorities, unless:
- 10.1. the misconduct is of such a serious kind and character that it calls into question the fitness of the student to remain a member of the University, e.g. having regard to the need to safeguard other students, staff or property;
 - 10.2. the fitness of the student to remain on a programme leading directly to a professional qualification, or to be admitted to and practice that profession is called into question by the circumstances of the misconduct and/or of its disclosure or non-disclosure; or
 - 10.3. the individual is included on the relevant Independent Safeguarding Authority barring list.
11. In addition, and subject to the University's duties under Part IV of the Disability Discrimination Act 1995 set out below, the following circumstances may also be dealt with as matters of professional suitability under these Procedures:
- 11.1. if a student develops a health condition or disability while on the programme, excluding temporary health conditions where a full recovery and return to study is reasonably expected within a reasonable and identifiable timescale e.g. a broken limb;
 - 11.2. if a student's existing health condition or disability changes while on the programme. Again, this would not include temporary health conditions where a full recovery and return to study is reasonably expected within a reasonable and identifiable timescale e.g. a broken limb;
 - 11.3. excessive periods of unexplained absence, recurring and frequent explained absences, from the programme or placement, or any absence from any part of the programme or placement which is significant in relation to the student's professional suitability.

VI. Diversity and Equality

12. The University will comply in dealing with the circumstances set out in paragraph 11 above with its obligations under Part IV of the Disability Discrimination Act 1995 to avoid discrimination against a disabled person and to take reasonable steps to avoid disabled people being placed at a substantial disadvantage in comparison to those who are not disabled in respect of certain matters. The University will also make any appropriate reasonable adjustments to the implementation of this procedure where substantial disadvantage is caused to a disabled student in comparison to those who are not disabled.
13. Less favourable treatment of a disabled person may be justified if it is necessary in order to maintain one or more competence standards, i.e. an academic, medical or other standard applied by or on behalf of the University for the purpose of determining whether or not a person has a particular level of competence or ability. The University will keep its competence standards under review with a view to ensuring that they do not have a discriminatory impact against disabled people or are otherwise justifiable as both material to the circumstances of the case and substantial.
14. In implementing these procedures the University will not unlawfully discriminate against any person, or subject any person to harassment or victimisation, on any of the following grounds:
 - a. race, colour, nationality, ethnic or national origin
 - b. religion or belief
 - c. gender, gender expression or identity
 - d. disability
 - e. sexual orientation, civil partnership/marital or parental status
 - f. age

VII. Informing a Professional Body and/or Independent Safeguarding Authority of Professional Unsuitability

15. The University may be required, and reserves the right at its discretion, to report to the relevant professional body/ies and/or the Independent Safeguarding Authority (ISA) the conduct of any student whose professional suitability has been subject to these Procedures.
16. Regulated Activity Providers (as defined in the Safeguarding Vulnerable Groups Act 2006) and the University have a statutory duty to refer any person who has engaged in relevant conduct and a duty to provide information to the Independent Barring Board upon request. The University must refer information to the ISA when they have dismissed an individual, or an individual resigns, because they harmed, or may harm, a child or vulnerable adult; or they think the ISA may consider it appropriate to bar the individual. Further information about the Safeguarding Vulnerable Groups Act 2006 and the legislative framework for a vetting and barring scheme for people who work with children and vulnerable adults is contained in Appendix C.

PART 2 – PROCEDURE FOR DEALING WITH PROFESSIONAL UNSUITABILITY

VIII. Referrals and Investigation

17. Allegations, referrals or complaints regarding student professional suitability (defined to as 'referral') may be brought to the University's attention by any member of staff or student of the University. In addition, a complaint may be made by bodies or individuals external to the University including professional bodies, the Independent Safeguarding Authority, placement providers, clients or service users. All such referrals should be brought to the attention of either the Dean of Faculty who will refer the matter to the Dean of Students (Student Support and Guidance) or directly to the Dean of Students who will inform the Dean of Faculty of the referral.
18. Individuals' confidentiality will be maintained as far as is reasonably practicable. Any records and correspondence will be kept, handled and stored in accordance with the requirements of these Procedures and the Data Protection Act 1998 by those involved in the procedure. The student(s) concerned may receive copies of any meeting records upon request, although, in certain circumstances, for example the protection of a witness, some information may be withheld. Subject to the requirements of confidentiality, the University will maintain and report appropriate statistics on the use of these Procedures in order to ensure its effectiveness and that the incidence of its use in relation to particular equality groups is not potentially discriminatory.
19. On receipt of a referral, the Dean of Students should not form any immediate judgement, other than to decide whether the matter is an issue relating to misconduct or health. The Dean of Students should instigate a preliminary investigation.
20. The preliminary investigation will normally be undertaken by the Dean of Students together with an appropriate representative from the relevant Faculty who will be able to give the professional context in which the referral has been made, and any other person who can provide material facts, in order to determine the next course of action.
21. A student who is the subject of referral may be temporarily removed from any professional placement as described in Section XV below.
22. Where the issue of suitability relates either to health, including drink or drugs, or a change in an existing health condition (hereafter referred to as a Health Condition) or the emergence of, or change in, a disability, the Dean of Students and/or the Dean of Faculty shall require the individual student to present for examination and written assessment by the University's Occupational Health Unit and/or any other appropriate relevant medical, clinical or psychiatric professional. The student shall be entitled to a copy of this assessment.
23. Once the detailed nature of the referral has been determined by investigation, the Dean of Students in consultation with an appropriate member of the Faculty, may attempt to resolve the issue by informal means, if possible and appropriate; including the provision of reasonable adjustments as required by the Disability Discrimination Act for matters relating to disability.
24. The Dean of Students may, in consultation with an appropriate member of the Faculty, and if necessary after taking external professional advice including from the relevant professional body, rule that the referral is not a matter of professional

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suitability, in which case it should not be the subject of further action under these Procedures. This will not preclude further action being instigated under a different procedure where appropriate.

IX. Informal Procedure

25. If the preliminary investigation indicates that a student's conduct constitutes professionally unsuitable behaviour or the student admits such misconduct, then the Dean of Students, in consultation with an appropriate member of the Faculty may implement one or more of the measures listed below. The following list is not exhaustive and it may be the case in any particular faculty or programme certain action listed may not at anytime be an appropriate measure if a referral is upheld:
 - a. That any necessary reasonable adjustment required by the Disability Discrimination Act be made in consultation with student and kept under review.
 - b. A warning and/or advice about future conduct.
 - c. A requirement that the student give an undertaking as to his/her future conduct, including within the University and/or on placements.
 - d. A requirement that the student seek appropriate medical, or other necessary, assistance to resolve the issues.
 - e. A requirement that the student undertake one or more specific tasks within the University as determined by the Dean of Students up to a maximum of 8 hours duration.
 - f. A fine of up to £50.
 - g. A requirement that the student pay for any damage to property, s/he may have caused, or recompense the University for any loss it may have suffered.
 - h. A requirement that the issue be referred to a formal Professional Suitability Panel.
26. If the preliminary investigation indicates that the nature of the referral is due to a Health Condition or disability of the student then the appropriate measure from the above list may be implemented in consultation and discussion with the student. Where the Health Condition or emergence of a disability is so severe as to have an impact upon the student's continued studies the matter must be referred to the formal procedure.
27. Measures (b) to (g) above may be used for less serious suitability issues where referral to the formal procedure is deemed inappropriate. The outcome under the informal procedure will be confirmed to the student's University email address.
28. Students who fail to undertake any imposed measures or who wish to request a review against the imposition of the measure(s), as outlined above, will be referred to the second, formal phase of the suitability procedure and a decision at that stage will be final.

X. Formal Procedure

29. If, following preliminary investigation by the Dean of Students, the referral cannot be resolved by informal means or it is deemed inappropriate to deal with it by informal means, the Dean of Students, in consultation with an appropriate member of the Faculty, may refer the matter to be dealt with under the formal procedure.

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30. Under the formal procedure, unless the case relates to a student nurse or midwife (to which paragraph 30.1 below applies), the referral will be considered by a formal Professional Suitability Panel consisting of four persons, namely:
- the Chair, who shall be a Dean or Vice/Associate Dean (or equivalent) of the University (excluding the Dean of Students and the Dean or Vice/Associate Dean (or equivalent) of the same Faculty as the student concerned) and who in the event of an equality of votes on a decision shall have a casting vote which may or may not be the same as her/his original vote;
 - one senior member of an appropriate professional partnership organisation who is either a member or registrant of, or lay adviser to the same profession as the student and whose membership of the panel has been nominated or agreed by the relevant Faculty;
 - one member of University staff who **must** be from a different professional programme from the student, but may be from the same Faculty or professional register; and
 - one member or designated officer of the student body.
- 30.1. In the case of a student nurse or midwife the referral will be considered by a formal Professional Suitability Panel consisting of five persons, namely:
- the Chair, who shall be a Dean or Vice/Associate Dean (or equivalent) of the University (excluding the Dean of Students and the Dean or Vice/Associate Dean (or equivalent) of the same Faculty as the student concerned);
 - one senior member of an appropriate professional partnership organisation who in the case of a student midwife must be a supervisor of midwives and in the case of a student nurse must be from the same part of the register and field of practice as the student eg adult, children's, mental health or learning disability nursing;
 - one member of University staff who **must** be from the same professional register e.g. a Nurse or Midwife, but not necessarily the same field of practice as the student;
 - one member of University staff from a different professional programme and who must not be a member of the same professional register as the student; and
 - one member or designated officer of the student body.
- 30.2. No person who has been involved in the Dean of Students' preliminary investigation may be a member of the Professional Suitability Panel. Neither the Invoking Officer nor Representative from the Faculty as outlined in paragraph 31.1 below shall be considered as members of the Panel.
- 30.3. The name and status of each member of the Panel shall be recorded in the minutes of the hearing.
31. The Invoking Officer shall be nominated by the Dean of Students and will be assisted at the Panel by an appropriate professional representative from the relevant Faculty who will be able to give evidence about the referral and comment upon the professional context in which the referral is made.
- 31.1. The representative from the relevant Faculty may be the same person who had been involved in the informal stage as identified in paragraph 20 above.
- 31.2. Both the Invoking Officer and Faculty representative shall be absent prior to, during the opening of and during any deliberations of the Panel, except where the Panel seek clarification of matters of fact in which case all parties shall attend.

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32. If the student's behaviour has previously been the subject of either the Student Disciplinary Procedure or these Procedures and was found to constitute misconduct or professionally unsuitable behaviour, either at the informal or formal stages, the Chair of the Professional Suitability Panel will be supplied with the relevant information, in a sealed envelope. This envelope will not be opened, nor will any of the information contained in the envelope be disclosed to any member of the Panel, until the members of the Panel have considered the evidence before them and reached a decision. If the case is upheld, the members of the Professional Suitability Panel may then have access to the information in the sealed envelope which may be taken into account in determining what action should be implemented.
33. Where the issue of suitability relates to a Health Condition or disability, the Panel will also consider the written assessment by the University's Occupational Health Unit and/or any other appropriate relevant medical, clinical or psychiatric professional as deemed necessary.
34. A student against whom a referral has been made shall be entitled:
 - a. to be made fully aware of these Procedures and of the substance of the referral;
 - b. to be present throughout the hearing and to see and hear all the evidence;
 - c. to call witnesses to give evidence on her/his behalf at the hearing and to cross-examine any witnesses
 - d. to be accompanied, assisted or represented at the hearing, normally by a member or officer of the Student Union Executive. Representation by a person from any other body may be permitted at the discretion of the Chair of the Professional Suitability Panel if notification has been given to the Chair, in writing, not less than 2 working days before the hearing. Representatives will not be permitted to answer questions on behalf of the student.
35. The student should be provided at least five working days before any hearing with a copy of the written evidence to be presented at the hearing. Any written evidence from the student to the Professional Suitability Panel should normally be submitted not less than two working days before the hearing.
36. If the student does not appear at the date and time scheduled for the hearing the Professional Suitability Panel shall consider the validity of any reasons advanced for non-attendance and:
 - if members so decide, adjourn the hearing to a later date and/or time; or
 - if no, or no valid, reason is advanced for non-attendance, proceed in the student's absence, regarding him or her (subject to any written account or representations) as having admitted none of the referral.
37. The Chair of the Professional Suitability Panel shall be advised by the rules of procedures, and will normally conduct the hearing according to the suggested format specified in Appendix D. The Dean of Students will ensure that all the necessary administrative arrangements are made. The procedure shall be completed as expeditiously as possible.
38. The Panel may either dismiss the case, or uphold the referral. The Panel will prepare a report within 10 working days of the hearing, summarising the facts of the case, presenting its evaluation of the facts and recording its decision. If the referral

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is upheld, the Panel may decide that no further action is necessary; or that one or more of the following measures be implemented. The following list is not exhaustive and it may be the case in any particular faculty or programme that certain action listed may not at any time be an appropriate measure if a referral is upheld:

- a. Expulsion of the student from the University and a report to the appropriate professional body, if applicable, and/or the Independent Safeguarding Authority, if appropriate.
 - b. Termination of professional education and training and a report to the appropriate professional body, if applicable, and/or the Independent Safeguarding Authority, if appropriate.
 - c. Suspension of professional education and training or from a placement for a specified period not exceeding one academic year.
 - d. Suspension of the student from attendance at the University for a maximum of two weeks.
 - e. Exclusion of the student by selective restriction to certain parts of the campus for a maximum period of six months.
 - f. Restriction on the holding of any office or committee membership in the University, or the Students Union, the exact details to be specified.
 - g. A recommendation to the Vice-Chancellor or Director of Services to terminate the student's accommodation contract for University accommodation or Head Tenancy and possession of the accommodation in accordance with the published terms and conditions of residence.
 - h. The issue of a written warning.
 - i. The imposition of a fine up to a maximum of £200, this figure to reflect the seriousness of the allegations.
 - j. That the student seek appropriate medical and/or other necessary assistance or support.
 - k. Continuation of studies on terms that the student undertakes special supervision or study or a recommended programme of action.
 - l. Continuation of studies on terms that the student seek advice, guidance and support from an appropriate professional and/or Student Support and Guidance.
 - m. Continuation of studies following a transfer of studies on to a more appropriate programme of study.
 - n. That any necessary reasonable adjustment required by the Disability Discrimination Act be made in consultation with the student and kept under review.
 - o. That no further action is necessary.
 - p. Any other measure to be implemented as deemed appropriate by the Panel.
39. Where in the opinion of the Chair of the Panel the recommended measure may be regarded as an academic penalty the recommended measure will be forwarded to the Chair of the relevant Assessment Board who will ratify the recommended measure on behalf of the Assessment Board.

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39.1. Measures 'a' to 'o' above shall not be regarded as an academic penalty for these purposes.

40. Where upon conclusion of the Panel, measures 'a' or 'b' are implemented and the Panel believe that grounds exist to refer the case to the Independent Safeguarding Authority for consideration as to whether the individual should be included on the relevant Barring List the Panel's decision, case notes, evidence including witness statements and minutes of the Panel shall be passed to the Director of Legal Services for consideration and Part XIV below shall have effect.

41. Where the nature of the referral is due to a Health Condition or disability of the student and it is the view of the Panel that further intervention is required then the appropriate measure from the above list may be implemented in consultation and discussion with the student.

41.1. Where the Health Condition or emergence of a disability is so severe as to have an impact upon the student's continued studies on the professional programme the panel should consider whether alternative study is appropriate or possible.

XI. Review

42. Where a student does not exercise the right to review, in effect timing out the procedure, the matter will be considered completed with no further recourse through the University procedure by the student(s). Where the procedure is completed in this manner a Completion of Procedures Letter will not normally be sent to the student(s) unless requested.

42.1. Where a student so requests, a Completion of Procedure Letter will be issued by the Dean of Students, and it will indicate that the student was out of time under the procedure.

43. A student may request a review against the decision of the Panel. A review shall not take the form of a re-hearing of the case and may only be made on one or more of the grounds listed below.

a. The emergence of significant additional evidence not available at the time of the Professional Suitability Panel hearing which could reasonably have affected the Panel's decision if disclosed at the panel hearing.

b. The emergence of evidence to show that there has been mal-administration in the conduct of the proceedings.

c. The emergence of evidence which demonstrates that the measures implemented are too severe, or can be shown to be inconsistent with those imposed for comparable incidents.

44. The student must give notice of intention to request a review in writing to the Dean of Students within ten working days of being informed of the decision of the Panel, stating clearly which of the above grounds will form the basis for the review.

45. Within a further five working days the student must submit a written statement of the review to the Dean of Students, setting out a full response to the Panel's decision, together with all additional evidence relied upon to establish the grounds for review. A request for a review or the presentation of further documents and evidence received after this time with cause shown for its late submission may, in exceptional circumstances, be granted at the discretion of the Chair of the Professional Suitability Review Committee. Any student who has failed to avail themselves of the opportunity of attending a Professional Suitability Panel hearing

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shall only be entitled to review by special permission of the Chair of the Professional Suitability Review Committee.

46. The Dean of Students must submit all documents pertaining to the review upon receipt to the Academic Secretary, who will, in turn, nominate a Chair of the Review Committee in accordance with paragraph 48.
47. The nominated Chair of the Review Committee will, based upon the documents received, consider whether or not the student has identified possible grounds for a Review and, if possible grounds for a Review have been identified, that a Review Committee should further consider the case.
 - 47.1. The sole arbiter of the validity of grounds for Review is the nominated Chair of the Review Committee; who may not delegate this responsibility
48. The Review Committee shall be no larger than the hearing panel. The Review Committee shall be chaired by a Pro-Vice-Chancellor, Deputy-Vice-Chancellor or the Vice-Chancellor. The Review Committee will meet as soon as practicably possible and normally within twenty working days following receipt of the full submission from the student.
49. The Review Committee may seek to deal with the case on the basis of documentary evidence and may, at its discretion, call a meeting to which the student is invited to attend to present his/her Review in person. If the student is invited to attend in person, he/she may be accompanied by a fellow student, Students' Union representative or member of staff at the University, who may speak on his/her behalf. The name of the representative must be notified in advance to the Chair of the Review Committee no later than two days before the date of the meeting.
 - 49.1. Where a student who has been invited to present his/her review in person does not appear at the date and time scheduled for the hearing the Review Committee shall proceed to deal with case on the basis of documentary evidence.
50. The Review Committee may:
 - a. find that the grounds for a Review have not been established and that the original decision of the Suitability Panel should stand; or
 - b. find that the grounds for a Review have been established, in which case the Review Committee will proceed with the review of the case.
- 50.1. If the Review Committee finds that the grounds for a Review have been established and proceeds with the review of the case, the outcomes of the Review may be to confirm, quash or vary the original findings of the Suitability Panel and/or any penalty imposed by the Suitability Panel. The Committee may also implement any sanction as specified in paragraph 35 should the Committee believe it to be necessary.
51. The outcome of the Review shall be final and there shall be no further opportunity to make representations to the University Council.
52. On completion of the review procedure, a Completion of Procedures Letter will be sent to the student(s) involved.

XII. Office of the Independent Adjudicator for Higher Education

53. At the point where the professional suitability procedure has been exhausted, a Completion of Procedures letter will be issued thus affording a student the right to

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take the case to the Office of the Independent Adjudicator for Higher Education (OIA). If the student wishes to take his/her complaint to the OIA, s/he must send a Scheme Application Form within three months of the date of the Completion of Procedures letter. A Scheme Application Form can be obtained from the Institutional Compliance Officer, from Chester Students' Union or downloaded from the OIA website www.oiahe.org.uk.

54. Where a student has failed to comply with the University's time limits for review the student has in effect exhausted the internal procedure and no further recourse is available to the student(s). However, in these circumstances there is no need to issue a Completion of Procedures Letter automatically, as the student would be able to by-pass the final stage of the University procedure and go directly to the Adjudicator.
55. However, if a student so requests, a Completion of Procedures Letter will be issued by the Dean of Students which will indicate that the individual student was out of time under the procedure and therefore excluded from submitting a review.

XIII. Conduct which may also be a Criminal Offence or subject to Professional Body Investigation

56. Where behaviour on the part of a student is not only professionally unsuitable under these Procedures, but may also constitute a criminal offence or require investigation by a relevant professional body or the Independent Safeguarding Authority in order to consider on-going registration, particular care will be taken to ensure that no comments are made to the media.
57. The following procedures apply where the alleged professional suitability may also constitute a criminal offence or would require investigation by, or referral to, a relevant professional body or the Independent Safeguarding Authority in order to consider on-going registration.
58. No action (other than suspension or exclusion pursuant to Section XV below) may be taken under these Procedures unless or until the matter has been reported to the police.
59. If a decision not to prosecute is subsequently taken or following an investigation the relevant professional body, or Independent Safeguarding Authority determines to take no further action, the Vice-Chancellor shall decide whether disciplinary action should continue or be initiated under these Procedures.
60. If a decision to prosecute is taken and a conviction obtained or a relevant professional body or Independent Safeguarding Authority imposes a disciplinary order including removal from a register or barring decision, the Court's or professional body's penalty shall be taken into consideration in determining any action under these Procedures.
61. Under the Safeguarding Vulnerable Groups Act 2006 it is a criminal offence to allow a barred individual to work with the relevant vulnerable group. Any person who is barred by the Independent Safeguarding Authority will therefore be immediately withdrawn from the programme of study and placements as necessary, without affecting any other action which may be taken under these Procedures.
62. If the outcome of a criminal prosecution is acquittal, or following an investigation or hearing the relevant professional body or Independent Safeguarding Authority determines to take no further action, the Vice-Chancellor shall decide whether or not professional suitability action should continue or be taken under these Procedures.

XIV. Referral to the Independent Safeguarding Authority

63. Where upon conclusion of the Panel, measures 'a' or 'b' are implemented and the Panel believe that grounds exist to refer the case to the Independent Safeguarding Authority for consideration as to whether the individual should be included on the relevant Barring List the Panel's decision, case notes and evidence, including witness statements and minutes of the Panel, shall be passed to the Director of Legal Services for consideration.
64. Upon receipt of the Panel's decision and associated evidence the Director of Legal Services, in consultation with any persons deemed necessary including the Vice-Chancellor, shall determine if the statutory duty to refer under the Safeguarding Vulnerable Groups Act 2006, and associated legislation, exists.
65. If in the opinion of the Director of Legal Services the statutory duty does exist then the Director of Legal Services will refer the individual and case to the Independent Safeguarding Authority.
66. If in the opinion of the Director of Legal Services the statutory duty does not exist but the case may be of interest to the Independent Safeguarding Authority then the Director of Legal Services may refer the individual and case to the Independent Safeguarding Authority.
67. If in the opinion of the Director of Legal Services the statutory duty does not exist and there is no reason to refer the case to the Independent Safeguarding Authority then the Director of Legal Services may not refer the individual and case to the Independent Safeguarding Authority, but will reserve the right to do so in the future if the need arises.

XV. Temporary Removal from Placement, Suspension and Exclusion Pending a Hearing

68. A student who is the subject of a referral may be removed from placement by an appropriate member of the Faculty Staff, the Vice-Chancellor or Deputy Vice-Chancellor pending a professional suitability hearing.
69. A student who is the subject of a referral and against whom a criminal charge is pending, or who is the subject of police or other professional body investigation may be suspended, or excluded from the University including placements by the Vice-Chancellor or Deputy-Vice-Chancellor pending the professional suitability hearing or the outcome of police or professional body investigation.
70. When the Vice-Chancellor has delegated power to a nominee (other than the Deputy-Vice-Chancellor) a full report shall be made to the Vice-Chancellor of any suspension or exclusion by the nominee.
71. Suspension may be a total prohibition of attendance at, and access to University premises, and of participation in University activities or subject to such conditions as the Vice-Chancellor may impose.
72. Exclusion involves selective restriction on attendance at, or access to, the University premises or prohibition of exercising the functions, or duties, of any office or committee membership in the University, or the Students' Union, the exact details to be specified in writing.
73. Suspension should be used only where there are good grounds for deeming exclusion to be inadequate.
74. An order of suspension, or exclusion, may include a requirement that the student should have no contact of any kind with a named person, or persons.

Professional Suitability Procedure

75. The use of the power to suspend, or exclude, under this provision is not intended as a penalty, but to protect members of the University community in general, or a particular member, or members, and the power shall be used only where the Vice-Chancellor is of the opinion that it is urgent and necessary to take such action. Written reasons for the decision shall be recorded and made available to the student.
76. The Vice-Chancellor's power of exclusion shall extend to fieldwork or field course or other organised activity away from University premises and the leader of such organised activity shall have the delegated authority to exclude any student(s). Such an exclusion decision may be in respect of a particular activity or associated residential accommodation, notwithstanding the exclusion may necessitate leaving the course.
77. Save in respect of exclusions pursuant to Paragraph 72 above no student shall be suspended or excluded unless s/he has been given an opportunity to make representations in person to the Vice-Chancellor. In respect of organised activities away from the University premises representations to the Vice-Chancellor shall be made as soon as practicable following return to the University.
78. In cases of great urgency, the Vice-Chancellor shall be empowered to suspend a student with immediate effect, provided that the opportunities mentioned above are given and the matter reviewed within five working days.
79. A decision to suspend, or exclude, from academic activities associated with the student's course of study (other than access to the Library), shall be subject to review, at the request of the student, where it has continued for four weeks. Such a review will not involve a hearing or submissions made in person, but the student shall be entitled to submit written representations. The review will be conducted by the Vice-Chancellor.
80. The Vice-Chancellor shall review the suspension or exclusion every four weeks.

XV. Admission to an Alternative Programme

81. Termination of or withdrawal from professional education and training on the grounds of professional suitability under these procedures will not preclude subsequent application for admission or transfer to a suitable alternative programme leading to an award of the University. Admission shall be subject to the University's Principles and Regulations and admissions policies and shall be at the discretion of the admitting authority having regard to the nature and circumstances of the student's professional suitability for the prior programme on which s/he was registered.

END

Appendix A

A List of the University of Chester Programmes and Professional Codes of Conduct which Students would be Required to Follow to Demonstrate Professional Suitability.

Definitive List held by AQSS which may be amended by the relevant Dean of Faculty or Academic Quality and Enhancement as necessary.

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Appendix B

The examples listed below are illustrative only and are neither comprehensive nor exhaustive. These examples may be added to or amended as necessary by the Vice-Chancellor:

- a Disrupts, or improperly interferes with, the academic, administrative, sporting, social, or other activities of the University, whether on University premises or elsewhere.
- b Obstructs, or improperly interferes with, the functions, duties or activities of any student, member of staff or other employee of the University, or any authorised visitor to the University, whether on University premises or elsewhere.
- c Behaviour which brings the University into disrepute.
- d Failure to comply with any aspect of the Health and Safety Procedures, rules or duties of the University or of any other organisation to which a student may be subject. Failure to take reasonable care for the health and safety of oneself or any of any student, member of staff or other employee of the University or any authorised visitor to the University.
- e Breach of the provisions of any rules or regulations of the University or of any other organisation to which a student may be subject.
- f Offences during assessment and examination which do constitute academic malpractice, for which separate rules and procedures apply, and may constitute failure to maintain professional suitability.
- g The submission to the University of false documents or documents containing false information and/or elements, such as signatures for the purposes of work, assignments, timesheets or other documents including claims for mitigating circumstances or academic appeal etc.
- h Damage to, or defacement of, University property or the property of other members of the University community caused intentionally or recklessly, and misappropriation of such property.
- i Unauthorised publication or transmission to any third party of a University activity and/or the unauthorised use of any form of recording equipment during a University activity.
- j Misuse or unauthorised use of University premises or items of property, including computer misuse and the communications network.
- k Failure to disclose your name and other relevant details to an officer or employee of the University of Chester, in circumstances when it is reasonable to require that such Information be given.
- l Failure to comply with a previously-imposed penalty or implemented action under these rules and procedures.
- m Acts of disturbance that threaten the rights and privacy of any member of the University, whilst on University premises or engaged in University activity, or resident in University owned or managed accommodation.
- n Failure to uphold or pursue the standards expected of any relevant professional or vocational bodies, which awards qualifications to students in relation to the care, welfare or education of the public.

- o Violent, indecent, disorderly, threatening, intimidating, offensive behaviour or language (whether expressed orally or in writing, including electronically).
- p Conduct that may incite, fund, promote or lead to acts of violent extremism.
- q Dishonesty or the supply of false or misleading information in relation to the University or its staff or students in connection with the holding of any office in the University, or in relation to being a student at the University, or in circumstances which the University reasonably considers affect professional suitability.
- r Any act of unlawful discrimination, hate crime, or any bullying, harassment or victimisation of any student, member of staff or other employee of the University or any authorised visitor to the University, including (without limitation) any behaviour which is ageist, homophobic, sexist, racist, or transphobic or which discriminates on the grounds of disability or religion.
- s The sending or posting of harmful, cruel or offensive text or images using the Internet or other digital communication devices against any student, member of staff or other employee of the University or any authorised visitor to the University.
- t Possession of an offensive weapon (including replica weapons) and /or ammunition on University premises.
- u Possession of illegal drugs whilst on University premises.
- v Inclusion on one or more of the barred lists maintained under the Safeguarding Vulnerable Groups Act 2006 or any act that would lead to investigation or deregistration by an appropriate professional body.
- w Conduct which constitutes a criminal offence.
- x Failure to respect the rights of others with regards to:
 - i. Freedom of speech and expression
 - ii. Freedom of belief, thought, conscience and religion
 - iii. Confidentiality and Privacy

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Appendix C

Safeguarding Vulnerable Groups Act 2006, the Independent Safeguarding Authority and the Duty to Refer

1. The SVGA provides the legislative framework for a vetting and barring scheme for people who work with children and vulnerable adults. The purpose of the new scheme is to minimise the risk of harm posed to children and vulnerable adults by those that might seek to harm them through their work (paid or unpaid) (whether they fall into the category of “regulated activity”, or “controlled activity”). It seeks to do this by barring unsuitable individuals not just on the basis of referrals but also at the earliest possible opportunity as part of a centralised vetting process that all those working closely with children and/or vulnerable adults will need to go through.
2. There will be two barred lists – one for those who are barred from engaging in regulated activity with children (the “children’s barred list”), and one for those who are barred from engaging in regulated activity with vulnerable adults (the “adults’ barred list”). These lists will be maintained by the Independent Safeguarding Authority who will also make decisions about whether an individual should be included in one or both barred lists. It will be a criminal offence for an individual who is included in either list to engage in regulated activity in relation the respective vulnerable group.
3. There will be four routes to inclusion on one or both of the barred lists:
 - 3.1. Automatic inclusion on one or both of the barred lists as a result of receiving a caution or conviction for specified offences, or other criteria which may be specified (such as orders, foreign orders or directions, and inclusion on a foreign barred list). There will be no right for the individual to make representations nor a right of appeal to the ISA in these cases.
 - 3.2. Automatic inclusion on one or both of the barred lists as a result of receiving a caution or conviction for certain other specified offences or as a result of having met some certain other specified criteria. There will be a right to make representations and a right of appeal to the ISA following inclusion.
 - 3.3. Specified behaviour (the term “relevant conduct” is used in the Act) that leads to consideration for inclusion on one or both of the barred lists. This includes, for example, conduct which harms a child in the case of the children’s barred list, or conduct which harms a vulnerable adult in the case of the adults’ barred list, or conduct involving child pornography for both lists.
 - 3.4. Risk of harm: where evidence suggests that an individual may present a risk of harm to children or vulnerable adults, this will lead to consideration for inclusion on the appropriate list.
4. A number of definitions are given in the Act, these are as follows:
 - a. **Regulated Activity:** - Any activity which involves frequent or intensive contact with children or vulnerable adults and is of a specified nature (e.g. teaching, training, care, supervision, advice, treatment or transport) and/or any activity allowing frequent or intensive contact with children or vulnerable adults and is in a specified place (e.g. schools, care homes, etc). This will include any placement undertaken by an individual student registered on a programme of study leading to professional registration.
 - b. **Regulated Activity Provider:** - An employer who employs a person to work (paid or unpaid) in a regulated activity. This will include any partner organisation who provides a placement for a registered student.

- c. **Relevant Conduct:** - Behaviour or conduct which endangers or is likely to endanger a child or vulnerable adult including possession of sexual material relating to children or sexually explicit images depicting violence against others. More over relevant conduct includes any conduct that may harm; cause to be harmed; put at risk of harm or incite another to harm a child or vulnerable adult.
- d. **Personnel Supplier:** - Includes an educational institution which supplies to another person a student who is following a course at the institution, for the purpose of enabling the student to obtain experience of engaging in regulated or controlled activity. This undoubtedly includes HEI's and the University of Chester.

5. A number of offences and duties are also detailed in the Act:

- a. A Regulated Activity Provider must not engage in regulated activity a barred person or a person who is not a member of the Scheme. Any RAP taking on a person in a regulated activity will commit a criminal offence if they fail to check the status of an applicant, employee, or volunteer unless the RAP receives verification from the University that the individual is a member of the scheme.
- b. It will also be an offence for RAP's or the University to permit a barred person, or a person who has not yet had a vetting and barring check, to work for any length of time (no matter how infrequent) in regulated activity.
- c. Regulated Activity Providers and the University have a statutory duty to refer any person who has engaged in relevant conduct and a duty to provide information to the Independent Barring Board upon request. The University must refer information to the ISA when they have dismissed an individual, or an individual resigns, because they harmed, or may harm, a child or vulnerable adult; or they think the ISA may consider it appropriate to bar the individual.
- d. Relevant information should be referred to the ISA as soon as it becomes available.

Appendix D(i)

Suggested Format for Hearings Under the Formal Stage

Formal hearings held under the Professional Suitability Procedure will normally be conducted as outlined below. The Chair will be responsible for the conduct of the hearing and will have regard to the suggested format; however the Chair may conduct the hearing as s/he believes to be appropriate so long as the format adopted provides a fair and impartial process and is outlined, so far as possible, to all parties at the beginning of the hearing. Where a student admits the misconduct the panel may dispense with those parts of the suggested format which in the reasonable opinion of the Chair may be superfluous.

- I The Panel will meet initially in private to examine any relevant papers submitted prior to the hearing and to decide the format or conduct of the hearing. .
- II The Chair shall invite the Invoking Officer, faculty representative, student and their representative to attend the Hearing.
- III In the presence of all parties the Chair will outline the format or conduct of the hearing to be adopted.
- IV The Chair will repeat to the student the allegations made against the student.
- V The Invoking Officer will present the case in support of the allegations, and may be questioned as follows:
 - a By the student or representative
 - b By the Panel
- VI Witnesses may be called to support the case for the University and will be questioned as follows:
 - a By the Invoking Officer and/or faculty representative
 - b By the student or representative
 - c By the Panel
 - d By the Invoking Officer and/or faculty representative in re examination
- VII The student or representative will present the defence and the representative and/or student may be questioned as follows:
 - a By the Invoking Officer and/or faculty representative
 - b By the Panel
- VIII Witnesses may be called to support the case of the student and will be questioned as follows:
 - a By the student or representative
 - b By the Invoking Officer and/or faculty representative
 - c By the Panel
 - d By the student or representative in re examination
- IX The Invoking Officer will summarise the case against the student.
- X The student or representative will summarise the case for the defence.
- XI The Chair will call on both parties to withdraw; but may recall either party in the presence of the other for clarification.
- XII The Chair may adjourn the hearing before reaching a decision, if further investigation is warranted.
- XIII The Chair will recall both parties and inform them of the decision, which will be confirmed in writing within 10 working days.

Appendix D(ii)

Suggested Format for Hearings Under the Review Stage

Review Hearings held under the Professional Suitability Procedure will normally be conducted as outlined below. The Chair will be responsible for the conduct of the hearing and will have regard to the suggested format; however, the Chair may conduct the hearing as s/he believes to be appropriate so long as the format adopted provides a fair and impartial process and is outlined, so far as possible, to all parties at the beginning of the hearing.

The student should be invited to present their case in person at a Review Hearing unless the Review Committee is reasonably satisfied that the case is an appropriate one to be dealt with on the basis of documentary evidence only.

Review Hearings will not take the form of a re-hearing of the case nor is the student expected to defend their actions or misconduct. Review Hearings are designed to allow a student to present their case as to why they believe that the finding of the Suitability Panel should be reconsidered based on one or more of the grounds, identified by the student, as listed below:

- a. The emergence of significant additional evidence not available at the time of the Professional Suitability Panel hearing which could reasonably have affected the Panel's decision if disclosed at the panel hearing.
- b. The emergence of evidence to show that there has been mal-administration in the conduct of the proceedings.
- c. The emergence of evidence which demonstrates that the measures implemented are too severe, or can be shown to be inconsistent with those imposed for comparable incidents.

To this end the recommended format of a Review Hearing is as follows:

- I. The committee meets to consider the evidence including the written statement
- II. The student and or representative present their case
- III. The committee questions the student and or representative
- IV. The Student and representative leave the room
- V. The committee considers the student's submission on the grounds of the review
- VI. The Chair recalls the student and representative to inform them of the decision which will be confirmed in a Completion of Procedures Letter. Alternatively, the Panel may inform the student of the decision by letter accompanied by a Completion of Procedures Letter.

The Review Committee may:

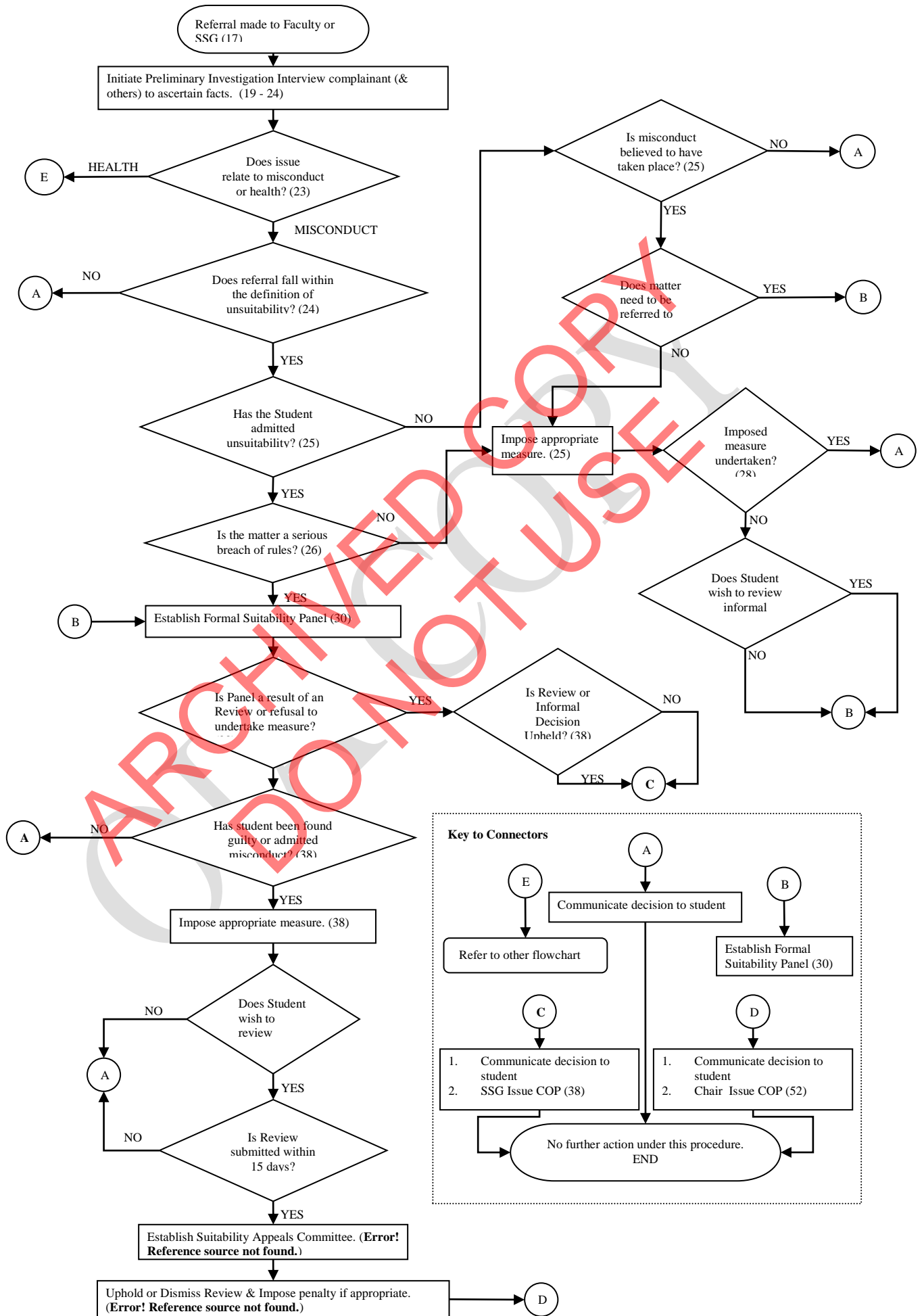
- a. find that the grounds for a review have not been established and that the original decision of the Suitability Panel should stand,
- b. find that the grounds for a review have been established, in which case the Review Committee will proceed with the review of the case,

If it finds that the grounds for a review have or have not been established, the Committee may also implement any sanction as specified in paragraph 38 **Error! Reference source not found.** should the Committee believe it to be necessary.

The outcome and rationale for the decision of the Review Committee shall be recorded in the minutes.

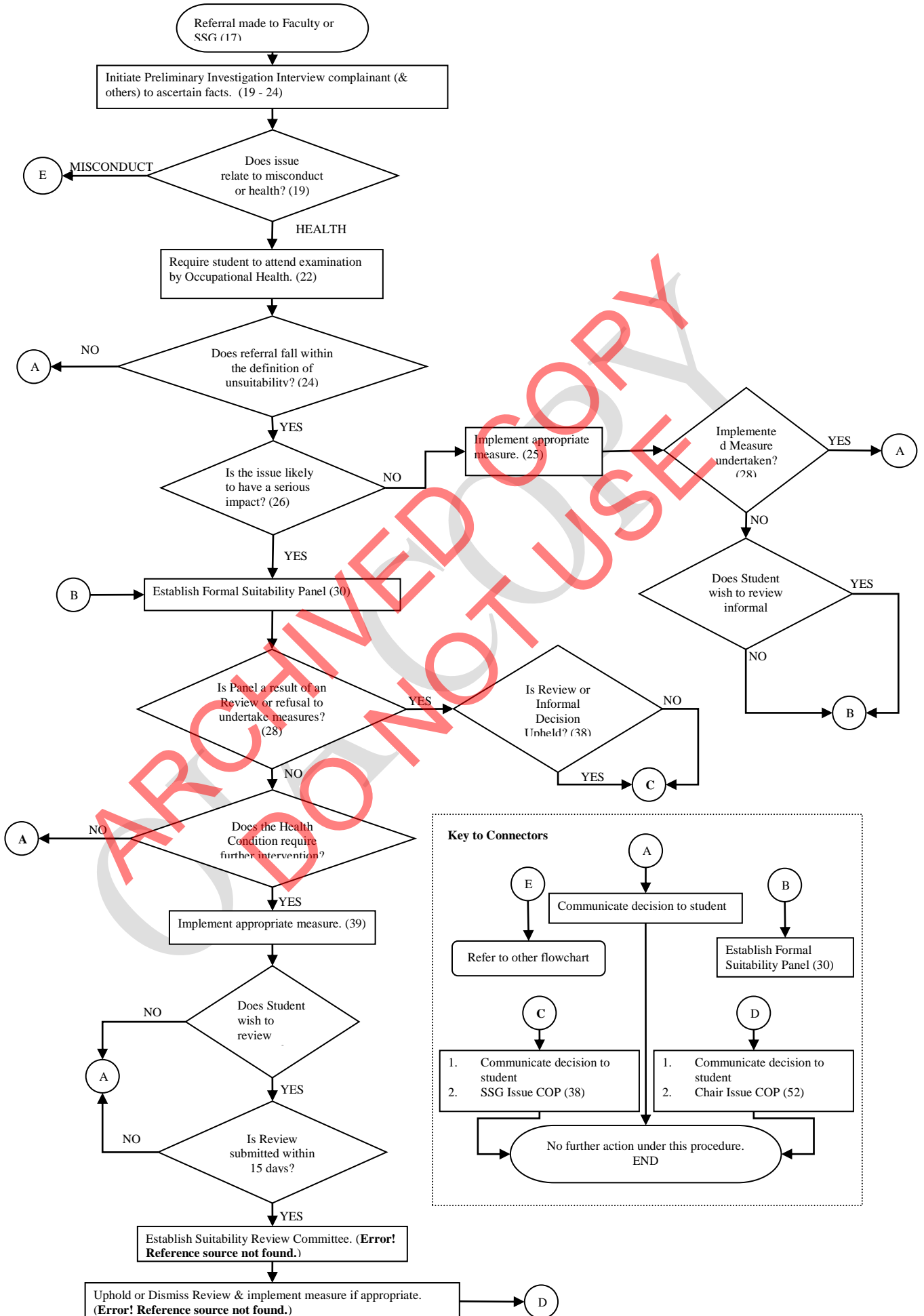
Appendix E-i

Flowchart showing process to be followed to investigate a matter of misconduct.



Appendix E-ii

Flowchart showing process to be followed to consider suitability arising from a health condition.



Appendix F

Template for Completion of Procedures Letter for The Student Complaints Scheme as Recommended by the OIAHE

TITLE FORENAME SURNAME
ADDRESS 1
ADDRESS 2
ADDRESS 3
ADDRESS 4
POSTCODE

Dear TITLE FORENAME SURNAME

Completion of Procedures Letter – Professional Suitability

This letter confirms that the internal review procedures of this University in relation to the professional suitability matter regarding [... ..describe professional suitability matter... ..] have been completed.

However, under the University procedure you failed to request a review against the decision of the Panel within the required 15 days and therefore the internal procedure has been exhausted by default.¹

The issue(s) that were considered in relation to your review into the professional suitability were: [... .. brief summary of the professional suitability,]

The final decision of the University is [.....detail.....] because [... .. reasons]

The procedures applied were the review section of the Professional Suitability Procedure.

If you are dissatisfied with the outcome you may be able to apply for a review of your university review of the Suitability matter to the Office of the Independent Adjudicator for Higher Education (OIA) providing that that the complaint that you take to the OIA is eligible under its Rules.

You will need to send to the OIA a Scheme Application Form within **three months** of the date of this letter. A Scheme Application Form can be obtained from Rob Dawson: Institutional Compliance Officer and/or the students' union and also may be downloaded from the OIA website www.oiahe.org.uk (or you can telephone or write to the OIA for a form). You should send a copy of this letter to the OIA with your Scheme Application Form.

Please note that the OIA will only review issues that have been dealt with through the University's internal complaints procedures.

The OIA's leaflet, ***Introduction to the Student Complaints Scheme***, is enclosed.

If you do decide to take your complaint to the OIA, Rob Dawson: Institutional Compliance Officer will deal with the complaint on behalf of the University.

Yours sincerely,
[Authorised signatory]

¹ This paragraph should only be used where a COP is issued where the review times out and following a request by the student.