



University of
Chester

Professional Suitability Procedures

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University of Chester

Professional Suitability Procedure

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PART 1 - SUBSTANTIVE

I. Introduction

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 are not related to a student's academic performance. Responsibility for procedures governing a student's academic progression is exercised by the Senate (Article 3.3 of the Articles of Government).
3. 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 held by the Dean of Academic Quality and Enhancement. This list may be amended by the relevant Dean of Faculty or the Dean of Academic Quality and Enhancement as necessary.
4. Whilst disciplinary procedures are not appropriate for dealing with conduct arising from mental illness, where the professional suitability of an individual student may be called into question because of such illness the University's Mental Health, Fitness to Study Policy and/or Professional Suitability Procedure should be implemented as appropriate.
5. The University is a community whose members work and, often, live together, and expects certain standards of behaviour. The University owes a duty of care and responsibility to members of the public within the local community. The University is entitled to protect and defend its name and reputation. As such the University has published a Student Code of Conduct.
6. Whilst it is not the University wish to control all aspects of student life the University must take cognisance of 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. Therefore, these Rules and Procedures extend 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.
7. The underlying principle is to provide an impartial process for dealing with problems of student discipline. The rules and procedures do not seek to reflect the criminal justice system or the criminal standard of proof. It is therefore only necessary for misconduct to be proved on the 'balance of probabilities' (often expressed as 'more likely than not'), rather than 'beyond reasonable doubt'.
8. The existence of the Student Code of Conduct and the Professional Suitability Procedure, including the definition of misconduct, will be brought to the attention of every relevant student on first registering as a student.

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9. Where the operation of this procedure causes substantial disadvantage to students with disabilities in comparison to those who are not disabled the University will make adjustments to the procedure which are reasonable if they may ameliorate the disadvantage.

II. Scope of the Rules

10. The University is a community, which relates to the City of Chester, the Borough of Warrington, the town of Shrewsbury and environs. The University recognises that it has a significant part to play in this wider community. It is therefore intended that these rules and procedures should both promote a high level of responsibility within the student body and further the development of good relationships between the University, the wider community and beyond.
11. This procedure is accordingly applicable to students at all University of Chester sites. The University reserves the right to apply it also, if appropriate, to students registered on programmes of study of the University of Chester delivered by other organisations, irrespective of location, campus or site.
12. The University has a legitimate interest in student conduct which;
 - a. is related to the academic or other work of the University;
 - b. occurs on the campus or other University property or on field trips, work placements or visits elsewhere;
 - c. involves other students, staff, visitors to the University and/or members of the public;
 - d. results in complaints concerning noise or other inconsiderate behaviour from local residents or others;
 - e. jeopardizes the good name and reputation of the University;
 - f. raises questions about whether the student should remain a member of the University because he/she poses, or may in the future pose a danger to other members of the University community or its good order; or
 - g. raises any other concern about a student's professional suitability.
13. In the above circumstances the University may take disciplinary measures against any student studying or registered with the University, if he/she fails to abide by the Student Code of Conduct as detailed in Appendix Bi – Student Code of Conductor is found guilty of misconduct, as defined below. The Director of Student Futures may also take any appropriate action to seek to address complaints about student conduct, including advising complainants to contact their local environmental health officer regarding noise or the police regarding criminal offences, or advising students how to resolve matters amicably with neighbours.

III. Objectives of the Procedures

14. The objectives of these Procedures are to:
 - 14.1. promote a high standard of student conduct, professionalism and responsibility in those members of the student body on programmes to which the procedures apply;
 - 14.2. protect and defend the reputations of, and public confidence in, the University and relevant professional bodies;
 - 14.3. develop good relationships between the University and relevant professional bodies, partner organisations and satellite sites, the wider community and beyond;

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- 14.4. 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;
- 14.5. provide an impartial process for dealing swiftly and fairly with professionally unsuitable behaviour.

IV. Potential Exclusions from Professional Suitability Procedures

15. These Procedures do not apply to:
 - 15.1. any decision made as part of, or which results from, the Occupational Health Assessment or Disclosure and Barring Service Enhanced Check for Regulated Activity undertaken as part of the suitability assessment for entry to a programme irrespective of when these checks are undertaken; for which separate procedures apply; or
 - 15.2. the entry requirements for a programme of study or the admission of students for entry to a programme of study; or
 - 15.3. 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 or in some other appropriate forum. In that event, these procedures may be initiated in respect of such concerns; or
 - 15.4. matters relating to Academic Integrity 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 'Academic Integrity Policy' as outlined in Section F of the 'University Quality and Standards Manual'. However, allegations of Academic Integrity 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 Integrity proceedings it becomes apparent that the student has engaged in behaviour that would normally be dealt with under these procedures, the Academic Integrity Review 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 Integrity.

V. What is Professional Suitability?

16. 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.
17. A student who is professionally suitable for registration with the appropriate professional body will:
 - 17.1. 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

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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 held by the Dean of Academic Quality and Enhancement. These expectations include good character and good health;

- 17.2. 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 due to failure to abide by the University's Student Code of Conduct as set out in Section VI below.

VI. Student Code of Conduct and definition of Misconduct

18. Subject to paragraph 12 above, a student renders herself/himself subject to disciplinary action on the grounds of misconduct if she/he fails to abide by the Student Code of Conduct as detailed in Appendix Ai or improperly interferes, 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 undertakes any action which may otherwise damage the University.
19. Examples of the misconduct referred to in paragraph 12 above are attached as Appendix Bii - Illustrative Examples of Misconduct. The examples listed are illustrative only, are neither comprehensive nor exhaustive and may be added to or modified as necessary by the Vice-Chancellor.

VII. What May Constitute Professional Unsuitability?

20. 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.
21. Moreover, 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 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:
 - 21.1. jeopardizing the reputation of any part or member of the University, the profession and/or a professional body;
 - 21.2. 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;
 - 21.3. 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;
 - 21.4. evidencing a student's inability to practise professionally due to misconduct or health problems, including issues relating to drink or drugs.
22. 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:

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- 22.1. 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;
 - 22.2. 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
 - 22.3. the individual is included on the relevant Disclosure and Barring Service barring list.
23. In addition, and subject to the University's duties as detailed in the Equality Act 2010 set out below, the following circumstances may also be dealt with as matters of professional suitability under these Procedures:
- 23.1. 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;
 - 23.2. 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;
 - 23.3. 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.

VIII. Misconduct involving Alcohol or New Psychoactive Substances

24. The University is committed to providing a safe and supportive learning environment, including seeking to address the risks posed by alcohol or substance misuse. Students who are under the influence of alcohol or any other substances including New Psychoactive Substances (NPS) are more likely to be involved in an offence either as a victim or perpetrator. The University maintains a policy on alcohol and drug misuse which is available on the University intranet
25. Whilst the University regards a person's dependency on alcohol or other substances as a health matter, this is distinct from the presence or influence of alcohol or other substances in misconduct, which will be regarded as an aggravating factor in the determination of the allegation and subsequent penalty, and no allowance will be made for it.

IX. Misconduct against a Person

26. As stated above the University seeks to provide a safe environment based on mutual respect for the rights and dignity of all individuals. Accordingly, misconduct against another person whether verbal or physical, including acts of violence will not be tolerated at the University of Chester.
27. Recognising particularly the impact that any form of sexual misconduct, violence or assault may have upon those directly involved and on the University community, the University of Chester is committed to elimination and prevention of such behaviour.
28. Any person who engages in any form of sexual misconduct, violence or assault will therefore be liable to precautionary suspension and liable to the most severe sanction as detailed in

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paragraph 59.a or 59.b if the allegations are upheld after consideration by a formal disciplinary panel.

X. Diversity and Equality

29. The University will comply with its obligations under the Equality Act 2010 to avoid discrimination because of any of the following:
- a. age
 - b. disability
 - c. gender reassignment
 - d. marriage and civil partnership
 - e. pregnancy and maternity
 - f. race
 - g. religion or belief
 - h. sex
 - i. sexual orientation
30. 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 remain justifiable as competence standards and are both material to the circumstances of the case and substantial.

XI. Informing a Professional Body and/or Disclosure and Barring Service of Professional Unsuitability

31. The University may be required, and reserves the right at its discretion, to report to the relevant professional body/ies and/or the Disclosure and Barring Service (DBS) the conduct of any student whose professional suitability has been subject to these Procedures.
32. 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 DBS 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 DBS 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.

XII. Delegation by, and Definition of Named Post Holders

33. The Vice-Chancellor, Deputy-Vice-Chancellor, Pro-Vice-Chancellor or other named post holders, including the Director of Student Futures, may delegate powers and responsibilities, as identified under these Rules and 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 this Procedure unless otherwise stated.
- 33.1. Further to the above throughout these Rules and Procedures the expression “Vice-Chancellor” may be interpreted as meaning the Vice-Chancellor of the University, Deputy-Vice-Chancellor of the University, a Pro-Vice-Chancellor of the University or their nominee; unless otherwise stated.

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34. For the purposes of Section XVI Formal Procedure the term *nominated staff* shall be regarded as any of the following University staff:
- a. A Dean;
 - b. A Director;
 - c. A Vice, Associate or Deputy Dean;
 - d. A Vice, Associate or Deputy Director;
 - e. A Deputy Provost
 - f. A Head of Department
 - g. A member of staff equivalent or senior to any of the above.
35. The Director of Student Futures and senior staff from the same Faculty/Department as an individual student against whom an allegation has been made are excluded from Chairing the relevant Panel.

XIII. Timeliness

36. The University will endeavour to conclude the formal procedure within ninety (90) calendar days.
- 36.1. Notwithstanding the above, it may be necessary for the University to alter or extend any timescale or deadline detailed in the procedure. Where this is the case the Director of Student Futures, the Invoking Officer or Chair of the relevant panel will, on behalf of the University, inform and explain the circumstances requiring the alteration to the student concerned.
- 36.2. Where cases may involve third parties and it is necessary for the University to either obtain information from or to await an action by the third party the University may need to await the completion of such action before either proceeding or continuing with the procedure. Delay in conclusion of the procedure may follow as a result.
37. If individual students against whom an allegation has been made need to request an alteration to the timescales or deadlines detailed in the procedure due to factors beyond their control, the University will consider any reasonable request made in good faith to alter the relevant timescale or extend a relevant deadline as necessary.
- 37.1. The University reserves the right not to comply with any request made by an individual student (or their 'Friend') to alter or amend any aspect of the procedure (including timescales or deadlines) unless the Director of Student Futures, the Invoking Officer or Chair of the relevant panel reasonably considers it necessary to do so.
- 37.2. Where the Director of Student Futures, the Invoking Officer or Chair of the relevant panel reasonably considers that any request made by a student (or their 'Friend') to alter or amend any aspect of the procedure (including timescales or deadlines) is vexatious, frivolous or intended to frustrate any aspect of the procedure including the investigation, panel hearing or any other function of the University, the request shall be refused and noted for consideration as an aggravating factor by the relevant panel at the hearing.
38. The University reserves the right to place on hold or suspend this procedure where the Director of Student Futures, the Invoking Officer or the Chair of the relevant panel reasonably believes that matters raised by an individual may have an impact upon or affect the hearing or have a significant bearing on the outcome of the hearing until the matters raised are

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satisfactorily investigated under the relevant University procedure and the relevant procedure exhausted as necessary.

- 38.1. Where the above applies paragraph 37.2 **Error! Reference source not found.** shall also take effect as necessary.

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PART 2 – PROCEDURE FOR DEALING WITH PROFESSIONAL UNSUITABILITY

XIV. Referrals and Investigation

39. Allegations, referrals or complaints regarding student professional suitability (defined 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 Disclosure and Barring Service, 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 Director of Student Futures (Student Support and Guidance) or directly to the Director of Student Futures who will inform the Dean of Faculty of the referral.
40. Individuals' confidentiality will be maintained as far as is reasonably practicable. Any records should be confidential and be kept in accordance with the requirements of the Disciplinary Procedure and the Data Protection Act 1998. The student(s) concerned may receive copies of any meeting records upon request, although, in certain circumstances information may be withheld, for example to protect a witness, or where otherwise personal data relating to a third party would be disclosed. All letters and correspondence in relation to any disciplinary procedure will be handled and stored in accordance with the Data Protection Act 1998 by those involved in the procedure. Subject to the requirements of confidentiality, the University will maintain and report appropriate statistics on the use of this procedure in order to ensure its effectiveness and incidence in relation to particular equality groups.
41. On receipt of a referral, the Director of Student Futures should not form any immediate judgement, other than to decide whether the matter is an issue relating to misconduct or health. The Director of Student Futures should instigate a preliminary investigation.
42. The preliminary investigation will normally be undertaken by the Director of Student Futures 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.
 - 42.1. An individual student whom the Director of Student Futures determines should be interviewed or called to a meeting as part of the preliminary investigation shall be entitled to be accompanied by a 'Friend', as defined below, at the interview or meeting.
 - a. A 'Friend' shall normally be a member or officer of the Student's Union, but may not be a fellow student who has had prior involvement in the case or is likely to be interviewed as part of the Director of Student Futures' preliminary investigation.
 - b. A 'Friend' who is a person from any other body may be permitted at the discretion of the Director of Student Futures.
 - c. Family members or partners will not normally be permitted to act as a 'Friend'.
 - d. 'Friends' will not be permitted to answer questions on behalf of the student.
43. A student who is the subject of referral may be temporarily removed from any professional placement as described in Section XXI below.
44. 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

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of, or change in, a disability, the Director of Student Futures 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.

45. Once the detailed nature of the referral has been determined by investigation, the Director of Student Futures 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 Equality Act for matters relating to disability.
- 45.1. The informal stage shall not be used other than the implementation of measure 47.i below where in the view of the Director of Student Futures, based upon advice from the Faculty Representative, the health, safety, vital interests or wellbeing of children, service users or patients has been compromised or those persons placed at risk by the student in a placement environment.
46. The Director of Student Futures 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 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.

XV. Informal Procedure

47. If the preliminary investigation indicates that a student's conduct constitutes professionally unsuitable behaviour or the student admits such misconduct, then the Director of Student Futures, 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 any time 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 to undertake or participate in a form of 'restorative justice' as determined by the Director of Student Futures.
 - f. A requirement that the student undertake one or more specific tasks within the University as determined by the Director of Student Futures.
 - g. A fine of up to £300.
 - h. 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.
 - i. A requirement that the issue be referred to a formal Professional Suitability Panel.
48. 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

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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.

49. Measures 47.b to 47.h 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.
50. 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.
 - 50.1. Where a student wishes to request a Review against the imposition of measures, as detailed in paragraph 47 above, the student must request the review in writing to the Director of Student Futures within five working days of being informed of imposed measures by the Director of Student Futures.
 - 50.2. Upon receipt of such a request the Director of Student Futures will confirm receipt of the request in writing and proceed to the formal stage of the procedure.

XVI. Formal Procedure

51. If, following preliminary investigation by the Director of Student Futures, the referral cannot be resolved by informal means or it is deemed inappropriate to deal with it by informal means, the Director of Student Futures, in consultation with an appropriate member of the Faculty, may refer the matter to be dealt with under the formal procedure.
52. Under the formal procedure, unless the case relates to a student nurse or midwife (to which paragraph 52.1 applies), the referral will be considered by a formal Professional Suitability Panel consisting of four persons, namely:
 - the Chair, selected from a list of nominated staff, as defined in paragraph 34 above (excluding the Director of Student Futures and senior staff from the same Faculty/Department 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.
- 52.1. 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, selected from a list of nominated staff, as defined in paragraph 34 above (excluding the Director of Student Futures and senior staff from the same Faculty/Department 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;

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- 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.
- 52.2. If the alleged misconduct is considered by the Director of Student Futures to involve another student as a victim of the misconduct, the following restrictions regarding the membership of the panel shall apply in addition to those specified in paragraph 52 and 52.1 above:
- a. The Chair may not be from the same Faculty as the victim; and
 - b. The member of the University Staff may not be from the same programme or department(s) of study as the victim; other than in the case of a nurse or midwife as stated in 52.1 above.
- 52.3. No person who has been involved in the Director of Student Futures' preliminary investigation may be a member of the Professional Suitability Panel. Neither the Invoking Officer nor Representative from the Faculty as outlined in paragraph 54 below shall be considered as members of the Panel.
- 52.4. The name and status of each member of the Panel shall be recorded in the minutes of the hearing.
53. The Invoking Officer shall be nominated by the Director of Student Futures 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.
54. The representative from the relevant Faculty may be the same person who had been involved in the informal stage as identified in section XV above. 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.
55. A student against whom a referral has been made shall be entitled to:
- a. be made fully aware of these Procedures and of the substance of the referral;
 - b. 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.
 - c. be present throughout the hearing and to see and hear all the evidence;
 - d. call witnesses to give evidence on her/his behalf at the hearing and to cross-examine any witnesses
 - e. be accompanied, assisted or represented at the hearing by a 'Friend'. Representation by a person from any other body may be permitted at the discretion of the Chair of the Disciplinary Panel if notification has been given to the Chair, in writing, not less than 2 working days before the hearing. Representation by a family member will not normally be

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permitted. Representatives will not be permitted to answer questions on behalf of the student.

56. 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.
57. 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(i). The Director of Student Futures will ensure that all the necessary administrative arrangements are made. The procedure shall be completed as expeditiously as possible.
- 57.1. Both the Invoking Officer and Faculty representative shall not be present prior to the commencement of the hearing, during any initial private meeting of the panel and during any deliberations of the Panel except where the Panel seek clarification of matters of fact in which case all parties shall attend.
58. 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.
- 58.1. The Invoking Officer and witnesses should not make reference to previous allegations or findings of misconduct or unsuitable behaviour during the Panel hearing; any references to previous allegations or findings should be removed, so far as practicable, from evidence including transcripts of interviews.
59. The Panel may either dismiss the case, or uphold the referral. If the referral 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 who shall not be entitled to apply or enrol for any other University Programme.

if appropriate and required by the professional body a report to the relevant professional body, and/or the Disclosure and Barring Service; paragraphs 61 and 62 below shall have effect.
 - b. Expulsion of the student from the University.

if appropriate and required by the professional body a report to the relevant professional body, and/or the Disclosure and Barring Service; paragraphs 61 and 62 below shall have effect.
 - c. Termination of professional education and training.

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if appropriate and required by the professional body a report to the relevant professional body, and/or the Disclosure and Barring Service; paragraphs 61 and 62 below shall have effect.

- d. Suspension of professional education and training or from a placement for a specified period not exceeding one academic year.
 - e. Suspension of the student from attendance at the University for a maximum of two weeks.
 - f. Exclusion of the student by selective restriction to certain parts of the campus for a specified period.
 - g. Restriction on the holding of any office or committee membership in the University, or the Students Union, the exact details to be specified.
 - h. A recommendation to the Vice-Chancellor or Domestic Bursar 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.
 - i. The issue of a written warning.
 - j. The imposition of a fine up to a maximum of £500, this figure to reflect the seriousness of the allegations.
 - k. That the student seek appropriate medical and/or other necessary assistance or support.
 - l. Continuation of studies on terms that the student undertakes special supervision or study or a recommended programme of action.
 - m. Continuation of studies on terms that the student seek advice, guidance and support from an appropriate professional and/or Student Futures.
 - n. Continuation of studies following a transfer of studies on to a more appropriate programme of study.
 - o. That any necessary reasonable adjustment required by the Disability Discrimination Act be made in consultation with the student and kept under review.
 - p. That no further action is necessary.
 - q. Any other measure to be implemented as deemed appropriate by the Panel.
60. 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.
- 60.1. In the recommendation of a measure, which may be regarded as an academic measure, Panels may not alter or amend the grades, marks or status of any module not related to the practice or placement in question.
 - 60.2. Measures '59.a' to '59.p' above shall not be regarded as an academic penalty for these purposes.
61. Where, upon conclusion of the Panel, measures '59.a', '59.b' or '59.c' are implemented and the Panel believe that grounds exist to refer the case to the relevant professional body and the professional body require that such reports are made, the Panel's decision, case notes, evidence including witness statements and minutes of the Panel shall be passed to the

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Director of Legal Services for consideration as to whether Part XX below should be implemented.

62. Where, upon conclusion of the Panel, measures '59.a', '59.b' or '59.c' are implemented and the Panel believe that grounds exist to refer the case to the Disclosure and Barring Service (formerly ISA) 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 as to whether Part XX below should be implemented.
63. 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.
 - 63.1. 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 as per paragraph 104 below.
64. Any person who engages in any form of sexual misconduct, violence or assault will be liable to the most severe sanction as detailed in paragraph 59.a or 59.b above if the allegations are upheld by the Panel. (These sanctions may also be appropriate to other misconduct.) Paragraphs 61 and 62 above will also have effect.
65. The Panel will communicate its decision in writing within five (5) working days of the Hearing, detailing the outcome.

XVII. Review

66. 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.
 - 66.1. Where a student so requests, a Completion of Procedure Letter will be issued by the Director of Student Futures, and it will indicate that the student was out of time under the procedure.
67. 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.
68. The student must give notice of intention to request a review in writing to the Director of Student Futures within ten (10) 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.

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69. Within a further five (5) working days the student must submit a written statement of the review to the Director of Student Futures, setting out a full response to the Panel's decision, together with all additional evidence relied upon to establish the grounds for review.
- 69.1. 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.
70. Any student who has failed to avail themselves of the opportunity of attending a Professional Suitability Panel hearing shall only be entitled to review by special permission of the Chair of the Professional Suitability Review Committee.
71. The Director of Student Futures must submit all documents pertaining to the review upon receipt to the University Secretary, who will, in turn, nominate a Chair of the Review Committee in accordance with paragraph 73.
72. 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.
- 72.1. The sole arbiter of the validity of grounds for Review is the nominated Chair of the Review Committee; who may not delegate this responsibility
73. The nominated Chair of the Review Committee shall be an individual selected from the list of nominated staff, (as defined in 33.1 above), or a Provost, a Pro-Vice-Chancellor or the Deputy-Vice-Chancellor.
- 73.1. 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.
- 73.2. The Review Committee shall be no larger than the hearing panel.
74. 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.
- 74.1. 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.
75. 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.
- 75.2. 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

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imposed by the Suitability Panel. The Committee may also implement any sanction as specified in paragraphs 47 or 59 should the Committee believe it to be necessary.

76. The outcome of the Review shall be final and there shall be no further opportunity to make representations to the University Council.
77. On completion of the review procedure, a Completion of Procedures Letter will be sent to the student(s) involved.

XVIII. Office of the Independent Adjudicator for Higher Education

78. 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 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 twelve months of the date of the Completion of Procedures letter. A Scheme Application Form can be downloaded from the OIA website www.oiahe.org.uk.
79. 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.
80. However, if a student so requests, a Completion of Procedures Letter will be issued by the Director of Student Futures which will indicate that the individual student was out of time under the procedure and therefore excluded from submitting a review.

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

81. 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 Disclosure and Barring Service in order to consider on-going registration, particular care will be taken to ensure that no comments are made to the media.
82. 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 Disclosure and Barring Service in order to consider on-going registration.
83. If an allegation of misconduct has been reported to the police, the Vice-Chancellor may decide that no action (other than suspension or exclusion pursuant to Section XXI) should be taken under these procedures until a prosecution has been completed or a decision not to prosecute has been taken.
84. If a decision not to prosecute is subsequently taken or following an investigation the relevant professional body, or Disclosure and Barring Service determines to take no further action, the Vice-Chancellor shall decide whether disciplinary action should continue or be initiated under these Procedures.
85. If a decision to prosecute is taken and a conviction results or a relevant professional body or Disclosure and Barring Service 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.

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86. 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 Disclosure and Barring Service 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.
87. If the outcome of a criminal prosecution is acquittal, or following an investigation or hearing the relevant professional body or Disclosure and Barring Service 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.

XX. Referral to the Disclosure and Barring Service

88. Where upon conclusion of the Panel, measures '59.a', '59.b' or '59.c' are implemented and the Panel believe that grounds exist to refer the case to the Disclosure and Barring Service 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.
89. 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.
90. 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 Disclosure and Barring Service.
91. 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 Disclosure and Barring Service then the Director of Legal Services may refer the individual and case to the Disclosure and Barring Service.
92. 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 Disclosure and Barring Service then the Director of Legal Services may not refer the individual and case to the Disclosure and Barring Service, but will reserve the right to do so in the future if the need arises.

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

93. 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.
94. A student who is the subject of a referral or 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.
95. 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.
96. 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.

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97. 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.
98. Suspension should be used only where there are good grounds for deeming exclusion to be inadequate.
99. 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.
100. 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.
 - 100.1. Students subject to a suspension or exclusion will be informed of the decision and the reasons for the decision in writing within five (5) working days of the suspension or exclusion taking place.
101. 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.
102. Save in respect of exclusions pursuant to Paragraph 101 no student shall be suspended or excluded unless s/he has been offered an opportunity to make representations in person to the Vice-Chancellor.
 - 102.1. In cases of great urgency, the Vice-Chancellor shall be empowered to suspend a student with immediate effect.
 - 102.2. 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.
103. 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, where new information becomes available or at the request of the student and normally every four weeks. The Office of the Director of Student Futures on behalf of the Vice-Chancellor shall conduct the review which will not involve a hearing or submissions made in person, but the student shall be entitled to submit written representations.

XV. Admission to an Alternative Programme

104. 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

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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 Bi – Student Code of Conduct

The University recognises that it is a community with a significant part to play in the wider communities in which it is located and that its obligations to its own staff and students extend to these wider communities. The University therefore believes that it should both promote a high level of responsibility within the student body and further the development of good relationships between the University and these wider communities and beyond. In doing so the University reminds students that in any situation, in any part of the University or when involved in any activities associated with the University including those undertaken away from University premises, students must:

- ❖ behave responsibly and with consideration, courtesy and respect towards others;
- ❖ not act in a way that could endanger, or cause harm or any form of distress to any other person;
- ❖ not engage in behaviour which causes offence or distress because of the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation;
- ❖ use the University's facilities or services with care;
- ❖ act within the law and behave in accordance with the University's rules and regulations including, but not limited to, those relating to:
 - Academic Regulations
 - Health and Safety
 - Equal Opportunities
 - Use of University facilities
 - Rules relating to residential living
 - Requirements of Professional, Regulatory or Statutory Bodies;
- ❖ not interfere with the normal working of the University or any of its facilities or services
- ❖ not bring the University into disrepute by any of their actions.

Under no circumstances will the University tolerate any behaviour that amounts to an offence against a person including, but not limited to, assault, sexual assault or sexual violence, domestic violence or discrimination or harassment of any kind, whether verbal or physical and in any form or medium, including in any online space or context; such misconduct will be dealt with severely.

Individual students are responsible for ensuring that they are aware of any such regulations or standards and that they comply with them. Copies of these regulations are available from the University's intranet. Examples of behaviour that will be regarded as misconduct and the possible sanctions which are available are published in the disciplinary and professional suitability procedure.

Appendix Bii - Illustrative Examples of Misconduct

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

Misconduct against People

- a) 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.
- b) Abusive behaviour which includes acts that may be regarded as sexual, violent, disorderly, threatening, intimidating or offensive; including the use of such language (whether expressed orally or in writing, including electronically).
- c) Any act of discrimination, or any bullying, harassment, intolerance or victimisation of any student, member of staff or other employee of the University or any authorised visitor to the University, which could reasonably be regarded as causing offence or detriment.
- d) The sending, posting or display by any means and in any form or medium of sexual, intimate, harmful, cruel or offensive text or images against any student, member of staff or other employee of the University or any authorised visitor to the University.
- e) Sexual misconduct including engaging or attempting to engage in an intimate or sexual act without consent, the inappropriate showing of sexual organs to another person and the making of unwanted remarks of a sexual nature (whether expressed orally or in writing, including electronically).
- f) Failure to respect the rights of others including those relating to: freedom of speech and expression, freedom of belief, thought, conscience and religion, confidentiality and privacy.
- g) 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.
- h) Conduct that may incite, fund, promote or lead to acts of violent or non-violent extremism.
- i) Possession of an offensive weapon (including replica weapons) and /or ammunition on University premises.
- j) Possession of illegal drugs whilst on University premises.
- k) 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.
- l) Conduct which constitutes a criminal offence.

Misconduct against Property

- m) 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.
- n) Misuse or unauthorised use of University premises or items of property, including computer misuse and the communications network.
- o) 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.
- p) Unauthorised taking or use of property belonging to either the University or another person without permission.
- q) Unauthorised entry into, or unauthorised use of University premises and property or the premises and property of other members of the University community.

- r) 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.

Misconduct against the University

- s) Conduct which brings the University into disrepute.
- t) Conduct which disrupts, or improperly interferes with, the academic, administrative, sporting, social, or other activities of the University, whether on University premises or elsewhere.
- u) Conduct which 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.
- v) 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.
- w) Conduct during assessment and examination which does not constitute Unacceptable Academic Practice or Academic Misconduct, for which separate rules and procedures apply, and may constitute failure to maintain professional suitability.
- x) 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.
- y) The submission to the University of false data, documents or documents containing false information/data and/or elements, such as signatures, including for the purposes of recording attendance (whether manually or electronically or using Chester-App 'Check-in'), work, assignments, timesheets or other documents including evidence to explain absence, claims for mitigating circumstances or academic appeal etc.
- z) The fraudulent production of, and/or the submission to a third party of, any document purporting to be issued by the University containing false or fraudulent information and/or elements; including, but not limited to, grades, marks, confirmation of student status, confirmation of attendance, or signature or any associated matter.
- aa) Breach of the provisions of any rules or regulations of the University or of any other organisation to which a student may be subject.
- bb) 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.
- cc) Failure to comply with a previously-imposed penalty or implemented action under these rules and procedures.
- dd) Knowingly encouraging, permitting or assisting any individual to engage in any of the above.
- ee) Any other behaviour which may reasonably be regarded as constituting misconduct or unprofessional conduct.

Appendix C - Safeguarding Vulnerable Groups Act 2006, the Disclosure and Barring Service 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 Disclosure and Barring Service 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 to 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 DBS 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 DBS 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 DBS 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 DBS may consider it appropriate to bar the individual.
 - d. Relevant information should be referred to the DBS 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 their case 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 their case.
- 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.

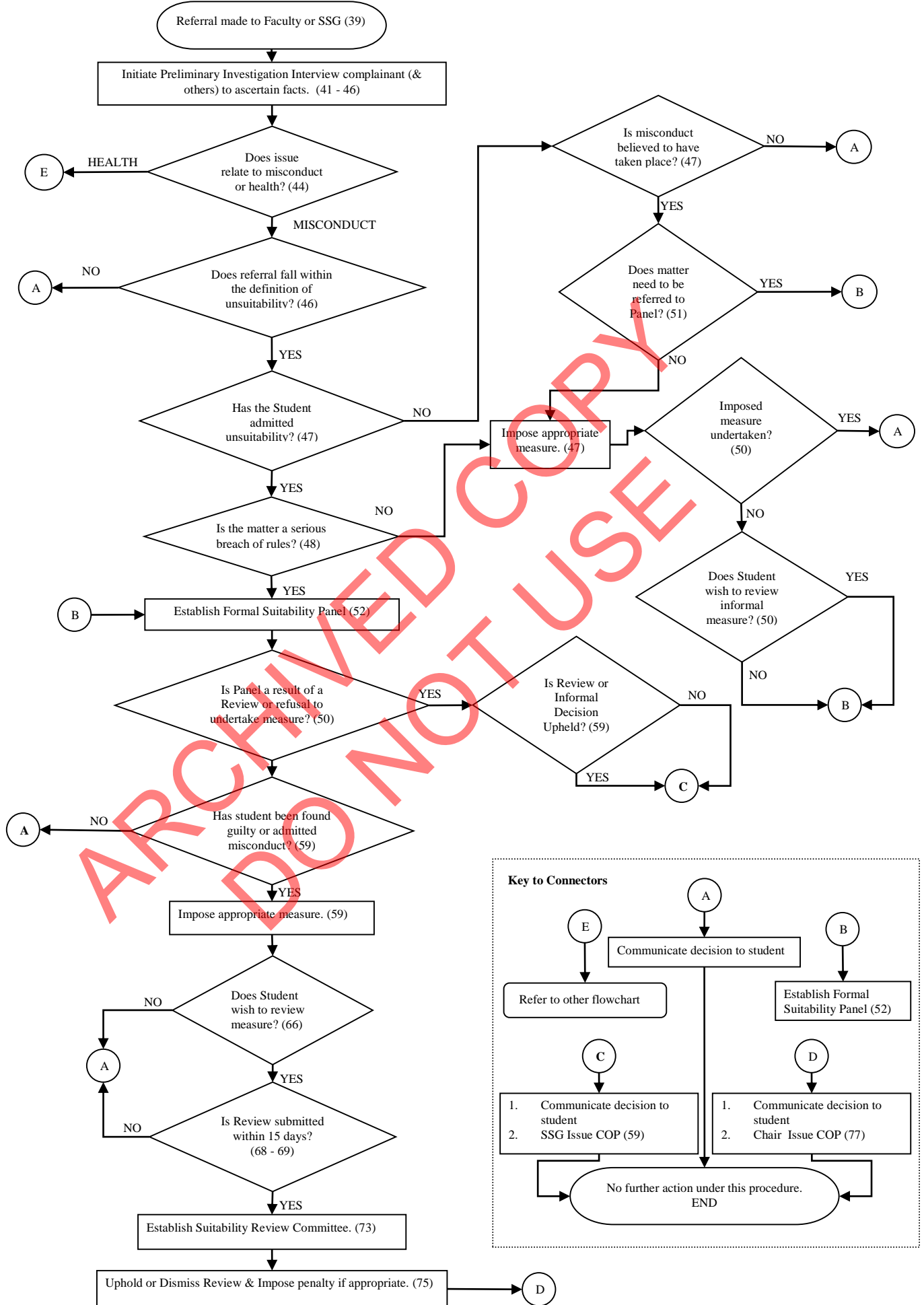
The Review Committee may:

- 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,

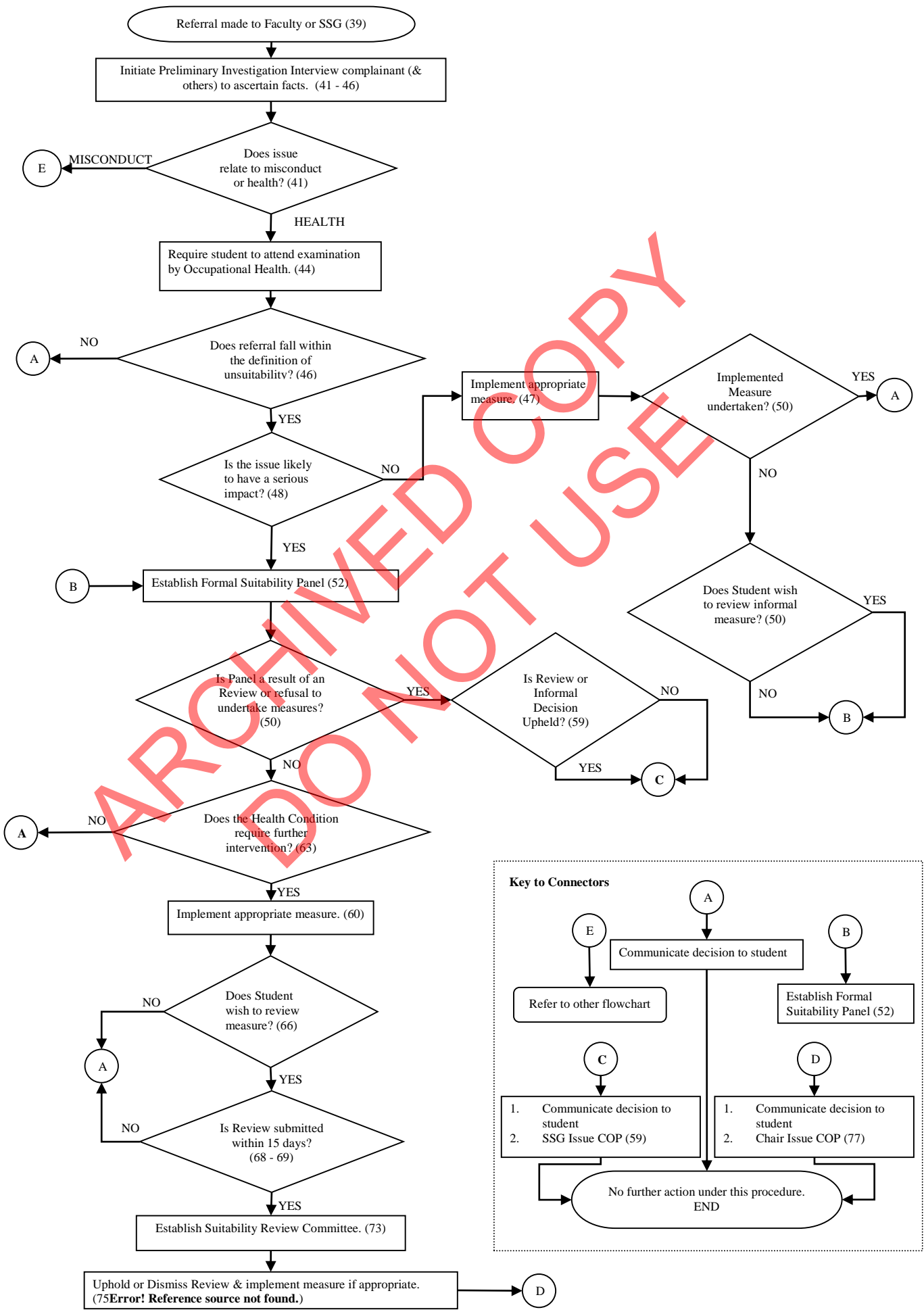
If it finds that the grounds for a review have or have not been established, the Committee may also implement any sanction as specified in paragraph 47 or 59 should the Committee believe it to be necessary.

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 - Completion of Procedures Letter Template

This template is for complaints closed on or after 9 July 2015.

Please note - the format may be adjusted to meet the individual circumstances of a complaint provided that the key points below are included.

Dear [Name of complainant],

Completion of Procedures Letter

This letter confirms that the internal procedures of [name of higher education provider] in relation to your complaint / appeal etc* regarding [please describe] 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 issues that you raised in your complaint / appeal etc* were [details]

The issue(s) that were considered in relation to your complaint / appeal etc was / were*: [brief summary of the complaint etc].

The final decision of [name of higher education provider] is* [detail] because [reasons].

The procedures / regulations applied were*: [details and date as supplied to the OIA's electronic Regulations Bank].

[Name of provider] subscribes to the independent scheme for the review of student complaints. If you are dissatisfied with the outcome you may be able to apply for a review of your complaint / appeal etc* to the Office of the Independent Adjudicator for Higher Education (OIA) provided that the complaint you take to the OIA is eligible under its Rules.

Should you decide to make a complaint to the OIA, your OIA Complaint Form **must be received by the OIA** within **12 months** of the date of this letter, that is, it must be received by the OIA **on or before** [insert date - e.g. if the Completion of Procedures Letter is dated 9 July 2015, this date should be 9 July 2016].

[Include here any factors of which the provider is aware which mean that it is particularly important for the student to bring the complaint promptly.]

You can fill in the OIA's complaint form online or download a copy from the OIA website. <http://oiahe.org.uk/making-a-complaint-to-the-oia/oia-complaint-form.aspx>. The OIA also publishes *An Introduction to the OIA Scheme for Students*, which can be downloaded from http://oiahe.org.uk/media/42715/oia_intro_leaflet_16pp.pdf. Alternatively, you can telephone or write to the OIA for a form. **You should send a copy of this letter to the OIA with your OIA Complaint Form.**

Guidance on submitting a complaint to the OIA and the OIA Complaint Form can also be found on the OIA's website <http://www.oiahe.org.uk/making-a-complaint-to-the-oia.aspx>. You may also wish to seek advice from the Students' Union about taking your complaint to the OIA.

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

Yours sincerely,

[Authorised signatory]

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