

## LTC14D185

**Title:** Report on progress made by the Working Group on the review of the University's General Regulation 14 (Professional Misconduct and/or Unsuitability)

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### Issue

The Working Group has consult Schools (EDU, HSC, MED, PHA, PSY and SWK) and sought comments on the draft regulations and procedures for the University's General Regulation 14. This report sets out their responses, issues considered by the Working Group and its final recommendations. Approval is sought for the draft regulations to take effect from September 2015.

### Recommendation

The Committee is asked to consider and approve the draft General Regulation 14, associated procedures and flow-chart, for implementation with effect from 2015-6.

The main changes to the current procedures are:

- The Chair of the Fitness to Practice Board/Committee taking a preview of cases with the Head of the School (previously, cases went to the Head of School alone) and having the options set out in the draft procedures and draft flow-chart;
- The change in the role and remit of the School's Fitness to Practice Board/Committee, as set out in the draft procedures and draft flow-chart.

### Resource Implications

Some Schools do not currently have a Fitness to Practice Board or the equivalent. They have indicated that they would set this up.

### Risk Implications

In an OIA finding from 2014, the University was asked to review the role and remit of the Fitness to Practice Board, and to make clear the distinction between gathering evidence in order to establish whether a particular incident has occurred, and whether that incident constitutes prima facie evidence. The University reported back in December 2014, with the enclosed draft procedures. The OIA indicated that it was satisfied with the draft procedures and the expectation is that it will now be approved for implementation.

**Timing of decisions**

The Committee is asked to approve the draft General Regulation 14, for implementation from September 2015.

**Further Information**

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**Accompanying documents:**

1. Report on progress made by the Working Group on the review of the University's General Regulation 14 (Professional Misconduct and/or Unsuitability)
2. Draft revised General Regulation 14
3. Draft Procedures for dealing with allegations of Professional Misconduct and/or Unsuitability
4. Draft Flow-chart of School's FTP process (EDU, HSC, MED, PHA & SWK)

**UNIVERSITY OF EAST ANGLIA**

**Report by the Working Group on the review of the University's General Regulation 14 (Professional Misconduct and/or Unsuitability)**

**Introduction**

At its meeting in December 2014, the Learning and Teaching Committee considered draft regulations put forward by the Working Group on the review of the University's General Regulation 14 (Professional Misconduct and/or Unsuitability) and granted approval in principle to the changing role and remit of the Fitness to Practice Committee/Board. Since then, I have consulted the professional Schools (EDU, HSC, MED, PHA, PSY and SWK) that may wish to make use of this General Regulation. The responses of the Schools were considered by the Working Group at its final meeting in January 2015, and their suggestions have been incorporated into the draft procedures where possible. The final version of General Regulation 14 and its associated processes are now presented to the Learning and Teaching Committee for approval, so that the procedures could be implemented with effect from September 2015.

**Responses**

The Working Group was pleased to receive comments from all the professional Schools. The School of Psychology had indicated that it did not make use of General Regulation 14, as its students do not achieve a professional qualification on graduation and do not follow a specific code of professional conduct. Others, such as the School of Education and Lifelong learning and the School of Health Sciences, confirmed that they had no queries. The Working Group received many helpful suggestions from the Norwich Medical School and the Schools of Pharmacy and Social Work, and has revised the regulations to best reflect their preferences. It was, however, necessary to leave a degree of flexibility in the procedures as the demands from professional bodies are so diverse in nature.

In general, the Schools agreed that where a student has accumulative patterns of certain behaviour/poor performance/poor engagement, a mechanism should be available to handle such cases within a supportive learning environment, to enable students to learn from their mistakes as they develop their professional competency. The judgement on whether a student has "crossed the line" remains with the School's Fitness to Practice Board/Professional Committee or the equivalent, as they would have the relevant understanding of the expectations from the profession. The Schools also appeared to welcome the clearer remit of their Fitness to Practice Board/Professional Committee or the equivalent, even if it means that they would now have to think carefully about membership and staffing of such a body.

**Confidentiality**

The Working Group considered the issue of data protection and confidentiality when involving third parties. It was agreed that if a case could put public safety at risk, then it would be appropriate to inform a third party (e.g. the employer) in order to safeguard the public; but if the case involved a technical breach of the University's procedures on research ethics, for example, then as long as it did not call into question the student's honesty then perhaps it was not necessary to inform the employer at the investigatory stage. Where Schools have a concern on whether to inform third parties at the investigatory stage/how best to proceed, they could always approach the Chair of the Senate Student Discipline Committee for advice/guidance.

In the draft procedures enclosed, the Chair of the Fitness to Practice Board/ Professional Committee or the equivalent is instructed to talk to the student as soon as possible (paragraph 1.5), in order to ascertain whether the employer was aware of the allegation(s). The Group felt that it was important for the student to be made aware of the expectations of the profession; and in some cases it may be helpful for the Chair of the Fitness to Practice Committee/Board to initiate discussions with the student's employer at an early stage.

## **Suspension of students**

The Working Group was also asked to consider how students are suspended from studies.

Currently if a student has done something that is considered a risk to the public, the School could suspend them from placements (for example accused of an assault with a partner, or not adhering to a hospital infection control procedure). However, suspension from theory (and therefore the University) requires a very serious accusation (e.g. welding a knife).

In some Schools, theory and practice were so integrated that it was not really possible for a student to continue class studies and assessments without the linked practice. It was difficult to manage students who have been suspended from practice for longer than a few weeks while investigations take place – and Schools are not sure of what they could do. Students in such a position could even argue that they have been disadvantaged by not having their practice experience which would have informed their assessments (thus they did not have equitable treatment compared with other students). The only real answer was for them to intercalate if an investigation takes longer than 4 weeks (and if external agencies are involved it could take months, for example for a court hearing).

The Working Group felt that suspension from studies must be proportionate, in that students should only be suspended from practice for public safety reasons. There must also be transparency in terms of the student knowing the reasons why and what they have been suspended for. It was suggested that in some cases, students could continue with the tuition for the theory part of their course, but should be able to defer the completion of assessments if it depended on practice that they were not in a position to complete.

It was agreed that the process of suspending students required further consideration, in order to develop appropriate guidance for Schools. As students could be suspended for many different reasons which may not be linked to their professional conduct or professional suitability (e.g. financial reasons), the Working Group felt that it would be more appropriate for another group of colleagues (representatives from the different services/departments/Schools that suspend students) to take this forward. The Working Group did not feel that it would be appropriate to include a process for suspending students as part of General Regulation 14 (Professional Misconduct and/or Unsuitability) if there are going to be more generic procedures available for suspending students.

The draft revised General Regulation 14, draft procedures and flow-chart are enclosed for the Learning and Teaching Committee's consideration. A review should be carried out after these procedures have been used for a year, so that any feedback could be used to refine these procedures.

Professor Nigel Norris  
April 2015

14 Professional Misconduct and/or Unsuitability

(1) A student on a programme of study where a practical professional placement is a required part of the course shall not act or behave in a manner which:

(a) jeopardises the welfare of the subject (whether patient, pupil or client) (i.e. professional misconduct); and/or

(b) contravenes the relevant professional code of conduct (i.e. professional misconduct); and/or

(c) is incompatible with behaviour required by the profession (i.e. professional unsuitability); and may at any time be temporarily excluded or permanently expelled from further study by the University if in breach of the above

(2) Allegations against a student of professional misconduct and/or professional unsuitability shall be made in writing to the Chair of the relevant Fitness to Practice Committee/Board (or the equivalent) in the School offering the professional programme of study concerned. A copy of the allegations must also be sent to the student's Head of School.

A referral could be made on the basis of poor conduct at a specific event, and/or a pattern of behaviour that has shown no significant improvement over a period of time, and/or any other breaches of the University's regulations which lead to concerns that the student may not be meeting the expectations of the profession.

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UNIVERSITY OF EAST ANGLIA**

**1. PROCEDURE FOR DEALING WITH ALLEGATIONS OF PROFESSIONAL MISCONDUCT AND/OR PROFESSIONAL UNSUITABILITY**

1.1 This procedure may be used for students registered on programmes leading to professional registration/accreditation (for example, currently in the Schools of Education and Lifelong Learning, Health Sciences, Norwich Medical School, Pharmacy and Social Work.) It is also applicable to professional students studying for higher and research degrees in these Schools, and the Taught element of Professional Doctorates at the Norwich Medical School.

1.2 Allegations against a student of professional misconduct and/or professional unsuitability shall be made in writing to the Chair of the Fitness to Practice Committee/Board (or the equivalent) at the School offering the professional programme of study concerned. A copy of the allegations must also be sent to the student's Head of School. On receipt of the allegation, the Chair of the Fitness to Practice Committee/Board (or the equivalent) shall inform the student of the allegation(s) or report of concerns as soon as possible.

1.3 It must be borne in mind that an allegation of professional misconduct and/or professional unsuitability is a serious and potentially defamatory one. Consequently it is essential that the proceedings should be conducted on a basis of strict confidentiality.

1.4 On receipt of a written allegation or a report of inappropriate behaviour/conduct, the Chair of the Fitness to Practice Committee/Board shall, in consultation with the relevant Head of School, review and consider how the case should proceed. Where a very serious incident had been reported, which may require immediate action from the Head of School (e.g. immediate suspension of the student from studies/ placement) then the Chair of the FtP Committee/Board should inform the HOS without delay, in order to safeguard all relevant parties.

1.5 In the event that the allegation(s) concerned incident(s) in a setting where the student is also employed as a practitioner/member of staff, the Chair of the Fitness to Practice Committee/Board should talk to the student as soon as possible, in order to ascertain whether the employer was aware of the allegation(s). In complex cases, the Chair of the Fitness to Practice Committee/Board should contact the Chair of the University's Senate Student Discipline Committee for advice and guidance.

1.6 The outcome of the decision of the Chair of the Fitness to Practice Committee/Board shall be one of the following:

- (i) no Fitness to Practice concerns. No records shall be made unless the School was required to do so by PSRB requirements;
- (ii) referral to the student's Adviser, with an email of instructions or a support plan that may help to address the issues identified;
- (iii) referral to a senior member of academic staff (e.g. Senior Adviser, Course Director etc), with an email of instructions and/or request for a meeting to be held with the student;
- (iv) instruct the student to attend a meeting with the full Fitness to Practice Committee/Board. The student should be reminded that s/he could seek the independent support of the Student Union Advice Centre and may be accompanied by a friend who shall not be a legal representative;

- (v) recommend to the Head of the School that the student's conduct should not be considered under General Regulation 14 but should proceed under one of the other General Regulations instead. If recommending disciplinary action under one of the other General Regulations, the Chair should enclose appropriate evidence (e.g. record of unsatisfactory or poor attendance that have shown no significant improvement.)

1.7 In complex cases, the Chair of the Fitness to Practice Committee/Board may recommend to the Head of School that an Investigating Officer be appointed immediately, before a meeting as mentioned in 1.6(iv) above is held. The Investigating Officer shall assemble impartially all the information relevant to the case. The Chair of the Fitness to Practice Committee/Board shall, in consultation with the Head of School and Investigating Officer, determine:

- (i) a realistic timescale for the relevant information to be collected and for the Investigating Officer to complete his/her report. The Chair must inform the student of the agreed timescale\* in writing, and provide updates to the student of any progress/delays thereafter;
- (ii) whether the Fitness to Practice Committee/Board should seek the views of external consultants/practitioners from the relevant Professional body, and contact the relevant external bodies if required.

*\*The investigation and write-up of the Investigating Officer's report would normally take up to 30 working days. On receipt of the Investigating Officer's report, a meeting of the Fitness to Practice Board should be convened within 10 working days. Working days exclude Saturdays, Sundays and University closure days. Please refer to timeline in appendix 2.*

### **Meeting of the School's Fitness to Practice meeting**

1.8 Where a full Fitness to Practice meeting with the student under 1.6(iv) is required, the student would be informed in writing of the allegation(s)/concerns made and s/he would be invited to submit a statement including, where relevant, any extenuating circumstances.

1.9 Prior to its meeting with the student, the Fitness to Practice Committee/Board may instruct the student to go for an Occupational Health/ other specialised medical assessment, and consider if there is a Fitness for Study issue that may explain the student's behaviour/ conduct. The report from the Occupational Health/medical assessment shall be made available to the Fitness to Practice Committee/Board and the student prior to the meeting.

1.10 The outcome of the decision of the full Fitness to Practice Committee/Board shall be one of the following:

- (i) no Fitness to Practice concerns;
- (ii) no further action is required but the student may be warned of the consequences of repeating the conduct/behaviour that gave rise to the allegation(s)/concerns. The student's Adviser may also be asked to provide guidance and support to help address the issues identified;
- (iii) referral to the University's Fitness for Study procedure;
- (iv) referral to other support services e.g. Dean of Students Office, Student Union Advice Centre etc so that the student could be provided with appropriate guidance and support;
- (v) recommend to the Head of the School that a formal warning be recorded on the student's file. In the event that the student continues to demonstrate conduct/behaviour that generates Fitness to Practice concerns, the Chair of

the Fitness to Practice Board and the Head of School shall consider whether the student's case should be referred to the University's Senate Student Discipline Committee (SSDC) for consideration;

- (vi) recommend to the Head of the School that the student's case should be referred for consideration under General Regulation 14 by the University's Senate Student Discipline Committee (SSDC). The Chair of the Fitness to Practice Committee/Board shall set out the findings and conclusions of the Committee/Board;
- (vii) where the student's programme of study has a requirement to pass a Fitness to Practice module or its equivalent, the Fitness to Practice Committee/Board may resolve that the student has not met the professional standards/ expectations of the programme of study and shall not be permitted to progress to the next stage of study.

### **Meeting with the University's Senate Student Discipline Committee**

1.11 To proceed with 1.10(vi), the Secretary of the Senate Student Discipline Committee shall be a representative from the Learning and Teaching Service sitting in Mode C.

1.12 The Head of School shall submit to the Secretary of the Senate Student Discipline Committee (Mode C: Professional Misconduct/Unsuitability) such evidence, including the report of the investigating officer and the findings of the Fitness to practice Committee/Board, as the Head of School shall deem fitting. The Secretary shall send copies of the evidence to the members of the Panel and at the same time to the student concerned and shall convene a meeting of the Panel as soon as possible.

1.13 The Head of School may nominate staff/ external contacts to be witnesses, to provide further information at the meeting. If witnesses are to be called, their names and contact addresses should be submitted to the Secretary along with the evidence referred to above. All witnesses must have some relevance to the case and for each witness proposed, a brief supporting statement must be provided by the Head of School. The decision of the Chair of the Senate Student Discipline Committee Panel shall be final regarding the witnesses to be called.

1.14 The Senate Student Discipline Committee Panel may also nominate witnesses, the decision of the Chair regarding the witnesses to be called being final.

1.15 The summons to the student shall be delivered to the student's University email address and contact address at least twenty (20) working days (Saturdays, Sundays and University closure days excepted) before the meeting of the Panel. The summons should include the evidence put forward by the Head of School in accordance with paragraph 1.12 above, mode and membership of the Panel, the name of the Presenter of the case (normally the Head of School), the name(s) of any witness(es) called and the date, time and place of the hearing. The student may nominate witnesses in accordance with the terms indicated in paragraph 1.13 above (except that the brief supporting statement shall be provided by the student) and should check that his/her selection of witnesses are willing and available to attend, before submitting the details to the Secretary at least two working days (Saturdays, Sundays and University closure days excepted) prior to the hearing. The decision of the Chair of the Panel regarding witnesses to be called shall be final.

1.16 On receipt of the summons from the Secretary in accordance with paragraph 1.15 above, the student may also provide the Secretary with a statement concerning the allegations against him or her and/or any additional written evidence as he or she considers relevant to the case. Such information submitted will be circulated to the Chair of the Senate Student Discipline Committee, Panel members and the Presenter in advance of the hearing by the Secretary.

1.17 In terms of the proceedings for the Senate Student Discipline Committee Panel's meeting with the student, the case shall be presented by the Head of School, followed by the student's response to the case. The student may bring to the hearing a friend (or representative from the Student Union Advice Centre) who shall not be a legal representative, to help the student to present his/her case, but the student shall answer any questions posed by the Committee. Equally, the Head of School may also bring a friend to the hearing except that the Head of School as Presenter of the case shall not present his/her case via a friend. The names and contact addresses of such friends should be notified to the Secretary at least two working days (Saturdays, Sundays and University closure days excepted) prior to the hearing.

1.18 The Panel shall consider the oral and/or written evidence of the Presenter (normally the Head of School), and of the student. It shall have the power to seek such other evidence as it deems necessary.

1.19 The hearing may proceed in the absence of the student if due notice of the meeting has been given and no valid reason of absence has been provided by the student. The hearing may proceed in the absence of witnesses if due notice of the meeting has been given to the witnesses and no valid reason of absence has been provided. The Chair of the Senate Student Discipline Committee may consider requests for the student and/or witness(es) to attend virtually e.g. by Skype.

1.20 The ruling of the Chair of the Senate Student Discipline Committee on any point of procedure shall be final.

1.21 The Panel may exonerate the student from the allegation(s) presented against him/her or determine that on balance of probabilities, the student committed wholly or in part the alleged offence(s). If the Committee finds the student guilty of professional misconduct and/or of professional unsuitability, the Panel shall have the power to exclude on a temporary basis or permanently expel him or her from further study in the University. The Panel may also impose such other penalty as it considers appropriate, provided that no such penalty requires or implies a concession or exemption under the Regulations governing the award of degrees. Penalties imposed which require or imply a concession or exemption under the University's regulations, are subject to approval by the Pro-Vice-Chancellor (Academic) and the Director of University Services for the relevant service (LTS or PGR).

1.22 When the Panel has reached its decision the Secretary shall inform the student in writing within five working days, giving reasons for the decision, and shall copy this communication to the Head, [the Chair of the Fitness to Practice Committee/Board](#), the Senior Advisor of the student's School and the relevant Course Director. The student shall be informed of the right to appeal against the decision in accordance with section 2.

1.23 If the student is found guilty of professional misconduct and/or professional unsuitability, the Head of School and the Chair of the Fitness to Practice Committee/Board shall decide whether a report should be made to the relevant professional, regulatory and/or statutory body.

## **2. PROCEDURE FOR APPEALS AGAINST DECISIONS OF THE STUDENT SENATE DISCIPLINE COMMITTEE (MODE C: PROFESSIONAL MISCONDUCT/ UNSUITABILITY)**

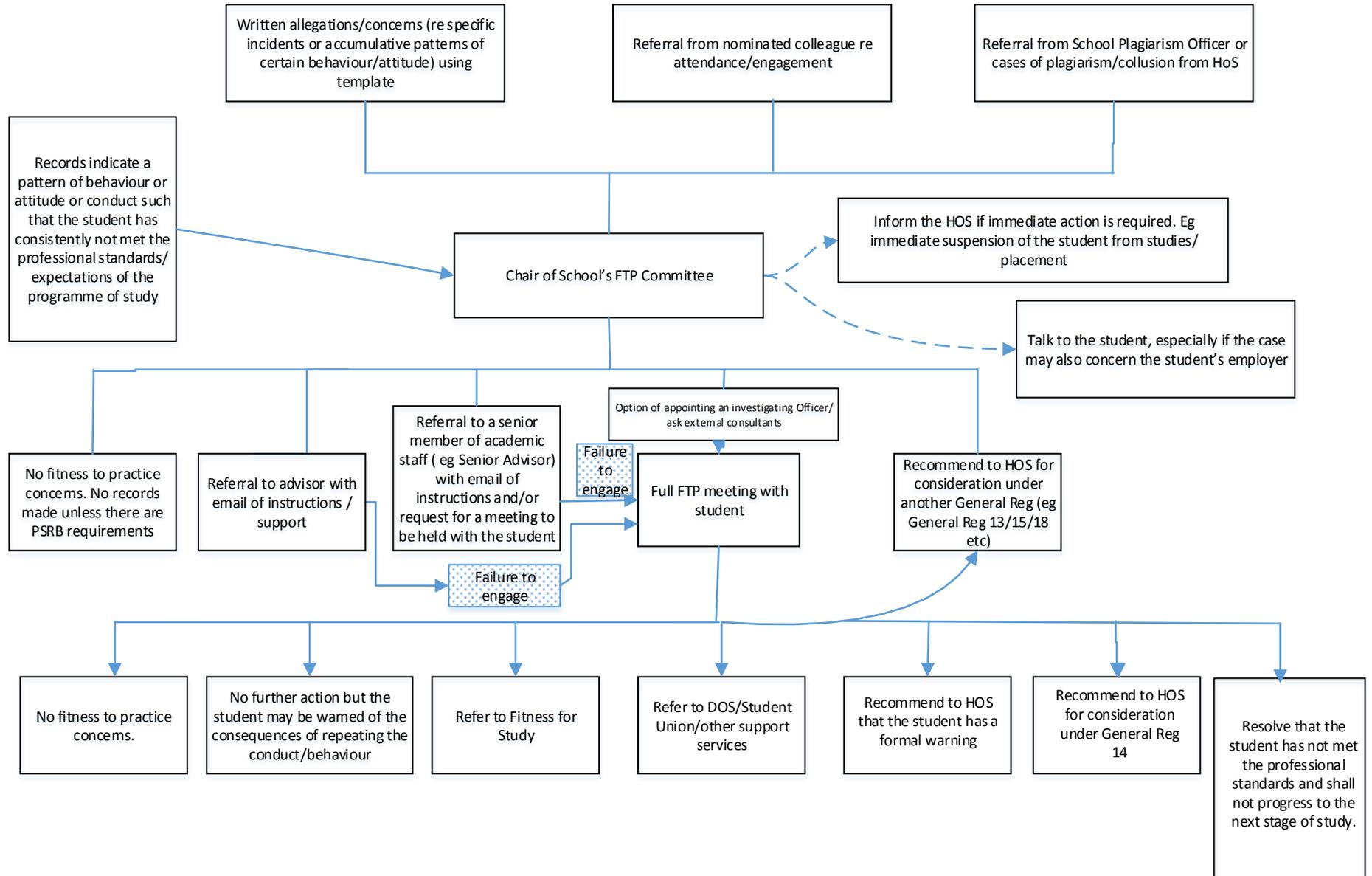
A student may appeal against decision(s) of the Student Senate Discipline Committee by lodging the appeal with the Director of Learning and Teaching Services in accordance with section D of the University's disciplinary procedures:

<http://www.uea.ac.uk/calendar/section3/regs%28gen%29/disciplinary-procedures/sectiond>

*Approved by The Senate: [insert date]*

# School's FTP process

## EDU, HSC, MED, PHA & SWK



## Timeline for consideration of FTP allegations by Schools

