Regulations on Fitness to Practise

These General Regulations, approved by the University Senate, set out University procedures governing Fitness to Practise.

CONTENTS

A Scope of the Regulations and Key Definitions…….....2
B Code of Conduct….....5
C Academic Offences….....7
D Non-academic Offences.....7
E School Fitness to Practise Committee.....7
F Cases referred to the School Fitness to Practise Committee that have been considered under University Regulations on Student Discipline.....12
G Appeals to the School Fitness to Practise Committee.....12
H Appeals to the University Fitness to Practise Committee 14
I Office of the Independent Adjudicator for Higher Education (OIA).....17
Appendix: summary of procedures flowchart.....18

PART A - SCOPE OF THE REGULATIONS AND KEY DEFINITIONS

A1 **Scope of these Regulations**

A1.1 The University has a responsibility to assess whether students enrolled on its health profession-accredited programmes meet the professional requirements for accreditation as well as the academic requirements, and that student performance, conduct or health does not put clients, colleagues, patients, staff, or the students themselves, at risk.

A1.2 All parties involved in administering fitness to practise procedures should ensure that students are made aware of the support services available to them through the School of Life & Health Sciences, or the Students' Union Advice & Representation Centre, at the earliest opportunity.

A1.3 Students enrolled on the programmes listed in Section A1.2 of these Regulations, are subject to the University Regulations on Fitness to Practise. The Regulations apply to all students enrolled on these programmes from the dates indicated irrespective of their mode or place of study.

A1.4 **Programmes covered by Fitness to Practice Regulations**

Postgraduate Diploma for Overseas Pharmacists,

MPharm Pharmacy,

BSc Biomedical Science,

BSc Audiology

Foundation Degree Hearing Aid Audiology

Applicable to all **current students** from **1 July 2010**

BSc Optometry

MOptom

Graduate Diploma in Optometry

Applicable to **students who enter the University** from **1 September 2010**.

MSc Clinical Science (Neurosensory Sciences)

Applicable to all **current students** from **3 October 2011**

BSc Healthcare Science (Audiology)

Applicable to **all current students** from **1 October 2012**

Postgraduate Diploma and MSc in Psychiatric Pharmacy

Applicable to **students who enter the University** from **1 September 2013**

A1.5 Breaches of these Regulations on Fitness to Practise may also be considered as possible breaches of the University Regulations on Student Discipline (section B1.4 of the University Regulations on Student Discipline).

A2 **Key Definitions**

A2.1 **Appeals**: practise sanctions, other than exclusion or expulsion, shall not be enforced against a student until the 10 day period of appeal has passed.

A2.2 **Assessments**: any assessment which contributes to a module mark or other module requirement including, but not limited to, invigilated assessments, class tests and coursework. Misconduct in any assessment which does not contribute to a mark for a module falls within the jurisdiction of the Executive Dean of the School concerned (and, in addition to any disciplinary action, may also be investigated as a fitness to practise issue).

A2.3 **Board of Examiners**

- the Programme Board of Examiners of the University for a particular programme as approved by the Senate on the recommendation of the relevant School Learning and Teaching Committee.
- It is intended as far as possible to separate the roles of the Board of Examiners from that of Disciplinary Boards and Fitness to Practise Committees, the Board of Examiners making academic judgements and the Disciplinary Boards and Fitness to Practise Committees making decisions in cases of examination malpractice and matters relating to professional conduct. The separation of functions is essential to ensure a student a fair hearing.

A2.4 The following are some of the practise sanctions in common use:

Exclusion is a practise sanction which temporarily prevents a student from attending any class or classes and/or from any part of the University or its precincts for a specified period of time. An order of exclusion may include a requirement that the student should have no contact of any kind with a named person or persons. The University officers imposing the exclusion will state whether an excluded student may or may not be permitted to sit University examinations and/or School tests.

Expulsion is a practise sanction which requires a student to leave the University permanently. It prevents the student from continuing with their programme of study, attending any class or classes and from attending any part of the University or its precincts and using its facilities.

Warnings (this definition from the General Pharmaceutical Council's Guidance on Fitness to Practise). Warnings are formal statements that indicate that a student's behaviour represents a departure from the standards expected of students and should not be repeated. Warnings should be administered when a student's behaviour raises concerns but it is not so serious that their fitness to practise is impaired.

A2.5 **Failure to attend**: if a student does not attend a scheduled hearing and fails to provide an explanation for their absence regarded as satisfactory by the Chair or Officer, the hearing may take place in the student's absence provided the Chair or Officer is satisfied that notice of the hearing was properly served. Appropriate decisions may be taken and any sanctions may be imposed in the student's absence. A student's representative and friend will normally not attend in their absence.

A2.6 **Friend**: students may be accompanied by one friend in addition to their representative. The role of the friend is to provide moral support to the student if desired. A friend is not expected to speak or take any formal part in disciplinary proceedings. One friend may attend any meeting at which the student is present. The name of the friend must be provided not less than three days before the date of any meetings and 10 days before a meeting of a School or University Fitness to Practise Committee.

A2.7 **Staff**: if a member of staff is involved, advice should be sought from Human Resources and Registry as it may be necessary to engage other procedures such as the staff disciplinary or grievance procedure.

A2.8 **Statements**: students attending a School or University Fitness to Practise Committee will be provided with a written statement of any account they give to the Fitness to Practise or University Discipline Officer as a formal part of the process and will be asked either to (i) agree to (ii) challenge the statement.

A2.9 **Student Records and References**

All decisions of the School Fitness to Practise Committee and University Fitness to Practise Committee shall be notified to the Chief Operating Officer, or their nominee, and to the Executive Dean, and the decisions shall be recorded on the student's University and School record. The School will inform outside bodies such as accrediting bodies or partner institutions, where relevant. The decisions of the School Fitness to Practise Committee and University Fitness to Practise Committee may be mentioned in references. For the University policy on references please see the University intranet: 'References for Students and Staff'.

A2.10 **Student representative**: students may be represented. Normally, this role is fulfilled by a member of staff from the Aston Students' Union Advice & Representation Centre. A representative has the right to speak to and question witnesses on the students' behalf. One representative may attend any meeting at which the student is present. The name of the representative must be provided not less than three days before the date of any meetings and 10 days before a meeting of a School or University Fitness to Practise Committee.

A2.11 **Support and guidance**: the Authorised Discipline Officer, University Discipline Officer, School Academic Offences Officer and Fitness to Practise Officer must advise the student at the earliest opportunity of the availability of support and guidance from the Advice & Representation Centre in the Students' Union or their Personal Tutor.

A2.12 **Timescales**: 'days' in these Regulations means working days i.e. not including Saturdays, Sundays or Bank Holidays or days on which the University is closed. Whilst the University will take all reasonable steps to comply with the timescales set out in these Regulations, it reserves the right to vary them depending on the circumstances of individual cases.

A3 **Causes of Concern**

The areas of concern listed below may call into question whether a student is fit to practise. The list is not intended to be exhaustive, but indicates the most common categories of concern. It does not prevent the University considering and adjudicating on any other conduct or action which may have fitness to practise implications, whether on University premises or elsewhere.

a a criminal conviction, caution or penalty notice of disorder (PND) or equivalents: child pornography; theft; financial fraud; possession of illegal substances; child abuse or any other abuse;

b drug or alcohol misuse: drunk driving; alcohol consumption that affects study, work or the work environment; dealing, possession or misuse of illegal drugs;

c aggressive, violent or threatening behaviour: assault; sexual assault; physical violence, bullying; abuse;

d a persistent inappropriate attitude or behaviour: lack of commitment to study or work, neglect of administrative tasks, poor time management; infrequent or non-attendance, poor communication, failure to accept and follow educational advice, failure to follow health and safety requirements or the regulations of the School or University;

e cheating or plagiarising: cheating in examinations; passing off others' work as one's own, forging a supervisor's name on assessments;

f dishonesty or fraud, including dishonesty outside the professional role: falsifying research; falsifying qualifications; misrepresentation; financial fraud; fraudulent CVs or other documents or students signing in for other students;

g unprofessional behaviour or attitudes: breach of confidentiality; sexual, racial or other forms of harassment; failure to keep appropriate boundaries in behaviour; persistent rudeness; bullying; unlawful discrimination;

h health concerns and lack of insight or management of these concerns: failure to seek medical treatment or other support; refusal to follow medical advice or care plans including monitoring and reviews, in relation to maintaining fitness to practise; failure to recognise limits and abilities or lack of insight into health concerns; a treatment-resistant condition which might impair fitness to practise.

PART B - CODE OF CONDUCT

B1.1 Students enrolled on programmes of study which are subject to Regulations on Fitness to Practise may be treated differently to students on other programmes in the University if their behaviour calls into question their professional suitability.

B1.2 All students on programmes of study subject to Regulations on Fitness to Practise are required to attend an introductory session covering the Code of Professional Conduct and Fitness to Practise for their respective programme. Students must sign the Code of Professional Conduct and Fitness to Practise for their respective programme within 2 weeks of enrolment. Failure to do so may result in the student being asked to withdraw from the programme.

B2 **Breaches of the Code of Conduct**

B2.1 A member of staff will be appointed to act as Fitness to Practise Officer (FPO) for programme(s) and/or subject(s) which are subject to Regulations on Fitness to Practise. The FPO should not be in a position where he or she may also need to provide pastoral support to students involved in disciplinary or fitness to practise cases.

B2.2 If a member of staff or a student, or any other person in contact with a student**,** has any concerns that a student enrolled on a programme of study subject to Regulations on Fitness to Practise may be unfit to practise, those concerns should be referred in writing to the FPO. Support and pastoral services may be offered to the student prior to such referral. The FPO will normally not consider any concerns that are raised anonymously.

B2.3 The FPO will, where necessary, investigate concerns and may interview and take written statements from those involved. Due consideration will be given as to whether individual cases are better dealt with through student support and remedial action rather than through the formal regulatory process, and whether there is any record of other concerns on the student's School file or on SITS. The FPO will consult with the Subject Lead for the area that offers the programme and take a joint decision on of the following courses of action:

a the FPO and Subject Lead are satisfied that there is no fitness to practise issue to answer, those involved will be informed accordingly and all records of the case, apart from minutes of the Board hearing, will be destroyed immediately;

b the FPO and Subject Lead decide that there is a possible breach of the University Regulations on Student Discipline, or that there has been repetition of more minor issues, or unresolved minor issues, and refer the case to the University Discipline Officer (see section B2.4 below);

c the FPO and Subject Lead decide that, although there has been no breach of the Regulations on Student Discipline, the student is in breach of the programme's Code of Conduct and that either:

i a Warning should be issued, (see definition of a Warning at A1.4 above) and an appropriate course of action should be agreed with the student and the issues, the action to be taken and appropriate timescales, recorded on the student's file. The action to be taken may include a requirement for the student to agree to

undertake additional training, support or supervision. The student must be advised in writing of the outcomes of the Warning and of the information to be retained on their file.
The student should be advised that they may appeal to the School Fitness to Practise Committee against the issue of a Warning. Appeals should be made following the procedures set out in Part G of these regulations.

or

ii if the student's fitness to practise is considered to be impaired, the case should be referred to the School Fitness to Practise Committee. The FPO will advise the student in writing of the concerns and the nature of the impairment. The student will be requested to respond to the allegations.

B2.4 Where cases are referred to the University Discipline Officer, the UDO will, where necessary, investigate allegations and may interview and take written statements from those concerned, including students and staff. The University Discipline Officer shall prepare a report of their findings for discussion with the appropriate FPO and a decision made either:

a that there is no case to answer, in which case the University Discipline Officer will advise those involved;

b that the case should be dealt with under the procedures set out in the University Regulations on Student Discipline, with subsequent referral to a Fitness to Practise Committee if the disciplinary charge is proven;

c that the behaviour does not constitute a breach of University Regulations on Student Discipline but may constitute a possible breach of the Code of Conduct, in which case action will be taken by the FPO and Subject Lead as in B2.3 c above.

B2.5 If the University Discipline Officer is satisfied that there is a case to answer under the University Regulations on Student Discipline, the University Discipline Officer shall frame the wording of the precise charge/s to be answered by the student and will inform the student in writing. The procedures will follow the University's Regulations on Student Discipline, with referral to the FPO to consider any Fitness to Practise issues only if a student admits or is found guilty of the charge and only when the process under the University's Regulations on Student Discipline is complete.

B3 **Criminal Offences**

B3.1 Where the University considers it possible that a criminal offence has been committed, the staff concerned may, after taking any advice necessary, refer the case(s) to the police and the offence will be dealt with under section B2 of the University Regulations on Student Discipline. Where a student has a criminal conviction, or has accepted a police caution, the role of the University Disciplinary Board will be to determine whether there should be a University penalty and if so what that penalty should be. Following the decision of the University Disciplinary Board the case will also need to be referred to the School Fitness to Practise Committee to consider any implications for the student in terms of their professional conduct. The case will be considered on the basis of the conviction and the student's University record; the Fitness to Practise Committee will not retry the case.

B3.2 Where a student has received a custodial sentence for the conviction, the School Fitness to Practise Committee will proceed on the same principles as those set out for the Disciplinary Board at Section B2 of the Regulations on Student Discipline. Students will be advised in writing of the School Fitness to Practise Committee's decision and of their right of appeal (procedures for which are set out in Part H of these Regulations).

B4 **Precautionary Exclusion**

B4.1 The FPO, following consultation with the Subject Lead for the relevant programme area, may recommend to the Vice-Chancellor, Senior Pro-Vice Chancellor or Chief Operating Officer that

a student's precautionary exclusion be considered under section B3 of the Regulations on Student Discipline.

The recommendation may be that a student be excluded from their programme of study, any practice components, or both study and practice components, before the referral to the disciplinary process takes place and until the determination of any criminal proceedings and/or any fitness to practise or disciplinary action by the School or University.

PART C - ACADEMIC OFFENCES

Academic offences such as plagiarism, collusion or falsification of data, will be considered under the University Regulations on Student Discipline, Part C and tariff of penalties. The FPO will be notified of all findings of guilt and practise sanctions imposed either by the School's Academic Offences Officer or the Disciplinary Board. The FPO will record such decisions on the student's file and will, in consultation with the Subject Lead, consider whether any further action is necessary under the Regulations on Fitness to Practise.

PART D - NON-ACADEMIC OFFENCES

All findings of guilt and practise sanctions imposed by the University Chief Operating Officer or nominee, or the Disciplinary Board against students who are subject to fitness to practise procedures, must be copied to the relevant FPO in writing when the decision is made. All other findings of guilt and practise sanctions imposed by Authorised Discipline Officers will be notified to FPOs by means of a regular report from the Registry.

The FPO will record such decisions on the student's file and will decide whether any further action is necessary under the Regulations on Fitness to Practise.

PART E - SCHOOL FITNESS TO PRACTISE COMMITTEE

E.1 **The remit of the School's Fitness to Practise Committee is:**

a to consider appeals against the Fitness to Practise Officer's issue of a Warning;

b to consider action taken by either the University's Authorised Discipline Officers or University Disciplinary Board, where the offence has been considered by the FPO and Subject Lead and is also considered to be a fitness to practise issue. The remit of the Committee will be to consider the impact of the offence on patient and public safety and public trust in the profession, and not to retry the case.

c to consider cases referred by the FPO and Subject Lead, which do not constitute a breach of the Regulations on Student Discipline, but which may have implications for fitness to practise.

E.2 **The School Fitness to Practise Committee will comprise:**

a the School of Life & Health Sciences Associate Dean Undergraduate Programmes or nominee (Chair);

b two members of Aston University academic staff who will normally be registered with the relevant professional regulatory body;

c two representatives from outside the University subject area, who may be Aston University staff or from the NHS, an NHS organisation, or an NHS service provider organisation, or who are health professionals;

The membership of the Committee will be agreed by the Executive Dean of the School, or nominee, from a panel of nominees approved on an annual basis by the School Learning and Teaching Committee.

If for any reason it is necessary to appoint additional members, the Executive Dean, or nominee, is authorised to appoint such members.

In addition, the Committee may wish to consult placement providers, additional members of professional bodies, legal advisors or health or medical specialists.

Members of the Fitness to Practise Committee will be asked to declare that they are free from any conflict of interest in the case to be heard. Neither the Fitness to Practise Officer, nor anyone who provides pastoral care for a student, including their personal tutor, nor anyone who has been involved in earlier disciplinary procedures with the student, as either a member of a committee or as an Authorised Discipline Officer, should be a member of the Committee.

If any member of the Committee is subsequently unable to attend and a replacement approved, the student must be notified of the change in the composition of the Committee.

The quorum for the Committee shall be the Chair, plus two members, one of whom must be a member of Aston University's academic staff who is registered with the relevant professional regulatory body and the other, either internal or external to the University who is not registered with the relevant professional body. If a quorum of members is not present at the Committee, it shall be reconvened normally not more than fourteen days later. The Committee will operate on the basis of either three or five members being present and voting.

The Executive Dean of the School, or nominee, will appoint a Secretary to the Committee who will maintain its formal working records. The Secretary of the School Fitness to Practise Committee will make an annual report to the School of Life & Health Sciences School Learning and Teaching Committee on the operation of the Committee.

E3 **Confidentiality of Proceedings**

a there is a strict requirement of confidentiality on all parties involved at any time in the Committee's proceedings. The decisions taken may be communicated only by the Chair and Secretary of the Committee, an FPO, Associate Dean Undergraduate Programmes or the Executive Dean of the School. Any exchange of information should be in the best interests of protecting patients and the public and should, wherever possible, be with the knowledge and consent of the student;

b in all cases an official record of the proceedings and the decisions reached, shall be kept and retained for 8 years after the student graduates from or leaves the University, or, if this is for a longer period, for such time as required by the appropriate professional regulator. All records of the case, apart from minutes of the Board hearing, will be destroyed immediately if the case is not found to be proven;

c see **Key Definitions** A1.5 above, for the implications for Student Records and References.

E4 **Protocol for Meetings of the Fitness to Practise Committee**

A student whose case is to be heard by the School Fitness to Practise Committee, shall be sent a written summons by the Secretary to appear before the Committee at least 15 days before the date of the hearing. The written summons is normally a letter sent by email to the student's Aston University email address.. If the student does not appear on the date appointed and the Committee is satisfied that notice of the hearing was properly served, the Committee may proceed to deal with the allegations and, if necessary, make decisions in the student's absence.

E5 **Cases being heard by the School Fitness to Practise Committee for the First Time**

E5.1 The FPO shall present the case to the Committee (the 'Presenter'). In cases where there is considered to be a conflict of interest, the Executive Dean or nominee shall appoint another person to present the case to the Committee. The Presenter shall not be a member of the Committee.

E5.2 In the written summons the student will be given notice of the alleged impairment to their fitness to practise, of the right to representation, the date and time of the hearing and the procedure to be followed by the Committee. In addition, the student will be sent a web-link to

the University Fitness to Practise Regulations and a web-link to or copy of the relevant Code of Conduct, and must be notified:

a of the requirement to respond to the alleged impairment to their fitness to practise in writing at least seven days before the date fixed for the hearing by either accepting or refuting the allegation;

b of the membership of the Fitness to Practise Committee;

c that if the student believes any member of the Committee to have a conflict of interest, this must be lodged in writing with the Secretary at least five days before the date of the hearing;

d that the student may call witnesses in their defence. Witnesses may be called by either the student or the Presenter and their names and statements shall be submitted to the Secretary at least seven days before the date of the hearing. Statements from the witnesses shall be made available to all parties at least five days before the date of the hearing;

e that the student may submit written material in their defence and that a copy of the written material must be submitted to the Secretary at least seven days before the date of the hearing. The written material shall be made available to all parties at least five days before the date of the hearing;

f that the student is expected to attend the hearing in person, may choose to be represented by another person and may in addition be accompanied by a friend. The names of those accompanying the student should be submitted to the Secretary at least seven days before the date of the hearing;

g that the student may approach a personal tutor, other members of the University or the Advice & Representation Centre in the Students' Union for advice as to procedure and the action which may be taken.

E5.3 Where the student has identified a possible conflict of interest in the membership of the Committee, the student will be required to give the Secretary the grounds of the objections. The School's Executive Dean, or nominee, will then decide in their absolute discretion on the validity of the grounds and any decision regarding membership will be final and binding on the student.

E5.4 The Committee may, in its entire discretion, admit new information or hear witnesses not previously notified, or in respect of which witness statements have not been submitted in accordance with paragraph E5.2d above. The party wishing to admit such information or call such witnesses shall make a submission to the Committee at the commencement of the hearing as to why the information should be admitted or the witness heard.

E5.5 The Committee will take into account any mitigating circumstances raised by the student, together with documentary evidence, where this can be provided e.g. medical evidence.

E5.6 If the student fails to respond to an allegation without good reason, a Committee shall be arranged in the student's absence, and the FPO shall present the case to the Committee. If the Committee finds the student's fitness to practise to be impaired it may proceed to make whatever decision(s) it considers appropriate in the student's absence. If the student is not present to hear the Committee's decision, then the decision will be notified to the student in writing.

E5.7 Members of the Committee, the Presenter, the student, and any person representing the student will have the following information available:

a the detailed wording of the allegations and relevant supporting documents, including a summary of the FPO's investigations, any record of previous misconduct, and, where applicable, copies of witness statements;

b the student's response to the allegations, including details of any mitigation submitted;

c the names of any witnesses to be called by the Presenter in support of the allegations and copies of their statements;

d the names of any witnesses to be called by the student and copies of their statements;

e a copy of any written material submitted by the student in his or her defence;

f the name of any person(s) accompanying and/or representing the student;

g a copy of the Regulations on Fitness to Practise and the relevant Code of Conduct.

E5.8 The case against a student is presented as follows:

a the Chair shall outline the process to be followed, as detailed below;

b a summary of the alleged impairment to the student's fitness to practise will be read out and the student will reply to it;

c in the event of the student contesting the allegations, the Presenter details the case against the student, and any witnesses for the School's case are heard;

d members of the Committee may ask questions, through the Chair, of the Presenter and/or their witness(es) at any time;

e if the student contests the allegations, the Committee will hear evidence and witnesses on behalf of the student;

f where witnesses are called, they may be examined, cross-examined and re-examined. If a student has chosen to be represented at a hearing, the questioning of witnesses will be undertaken by the representative. Witnesses shall leave the hearing once they have given their evidence;

g members of the Committee may ask questions, through the Chair, of the student and/or representative and/or their witness(es) at any time;

h both the student, or the student's representative, and the Presenter shall be allowed to make a final address, the student or their representative being allowed to make the final statement;

i the student, the student's representative and/or friend and the Presenter shall withdraw while the Committee considers its decision;

j in considering the evidence, the Committee should consider the balance of probabilities. Fitness to Practise shall not be considered to be impaired unless a majority of the voting members of the Committee present so decide; all members of the Committee have a vote and no abstentions are permitted. Any sanctions shall be decided by the same voting procedure. In making its decision, the Committee shall take into account mitigating circumstances presented by the student which are material to the case. Where the Committee concludes that the circumstances should be taken into account this will normally mitigate the severity of the Committee's decision. In determining whether particular circumstances should be taken into account, the Committee will consider whether the circumstances have previously been disclosed in a timely manner.

E5.9 In making its decision in a case relating to a student's conduct, the Committee will also take into account any previous fitness to practise issues, whether or not they occurred on University premises and regardless of whether the student was a member of the University at the time. The Committee should also take into account:

- the severity of the behaviour;
- the degree of premeditation;
- whether the behaviour was repeated or continuous;

- the likelihood of repeat behaviour;
- the maturity of the student and the year of study;
- how well the student might respond to support and remediation;
- the impact of the student's behaviour upon staff, students, the public, and the environment or the standing of the University.

E5.10 The School Fitness to Practise Committee may agree one of more of the following outcomes:

a no impairment of fitness to practice;

b a written Warning;

c that the student's continuation on the programme be made conditional upon the student:

i being closely supervised;

ii seeking professional help and guidance, as specified by the Committee;

iii meeting specified academic and/or professional standards as specified by the Committee;

iv any other action considered appropriate by the Committee to enable the student's successful completion of the programme;

d exclusion from the programme for a specified period until he/she has:

i sought professional help and guidance, as specified by the Committee;

ii met specified academic and/or professional standards as specified by the Committee.

The Committee will state whether an excluded student may or may not be permitted to sit University examinations and/or School tests while they are excluded;

e that the student's enrolment on the programme should end.

E5.11 The outcome of the hearing will be confirmed to the student in writing within seven working days. The Committee must give the reasons for its decision and specify any timeframe or conditions that may apply. The Committee shall also indicate what information will be disclosed to the professional regulator, and when.

E5.12 The student, any person accompanying or representing the student and the Presenter will return to hear the Committee's decision. The student will be advised of the right of appeal to the University Fitness to Practise Committee (procedures for which are set out in Section H below).

E5.13 Sanctions, apart from exclusion and expulsion, shall not be imposed until the 10 day period for appeal has expired. If an appeal is lodged, the sanctions, apart from that of exclusion and expulsion, which are effective immediately, shall be suspended until the appeal has been determined by the University Fitness to Practise Committee.

E.6 **The Role of the Presenter at the Committee**

The School's case normally will be presented by the Fitness to Practise Officer. The FPO should decide whether the case will be orally presented (the usual practice) or in writing only and will decide what evidence will be submitted to the Committee and which, if any, witnesses, will be called for the School. The FPO should present the case in such a way as to draw attention to any issues which need to be explored further and which could have a bearing on the outcome of the hearing.

PART F - Cases referred to the School Fitness to Practise Committee that have already been considered under University Regulations on Student Discipline

Where cases have already been considered by the University's Authorised Discipline Officers or the University Disciplinary Board, and where the offence is also considered to be a fitness to practise issue, the remit of the Committee will be to consider the impact of the offence on patient and public safety and public trust in the profession, and not to retry the case. The procedures for the School Fitness to Practise Committee in Section E will be interpreted or not applied accordingly.

PART G - Appeals to the School Fitness to Practise Committee

G.1 A student may appeal to the School Fitness to Practise Committee against a Warning issued by the FPO. The decision of the Fitness to Practise Committee in such cases will be final and no further appeal shall be permitted within the University.

The student must make any appeal to the Secretary of the School Fitness to Practise Committee in writing within 10 days of the FPO's decision being notified to the student. The student must state the grounds on which the appeal is made. The formal request from the student, and any supporting documentation, shall be copied to the Fitness to Practise Officer, who will be asked to provide a brief written report of the circumstances of the case. Where the appeal proceeds to a Fitness to Practise Committee, the Officer will be asked to attend the meeting and the Officer's report shall be submitted to the student.

G.2 The Chair and Secretary of the School Fitness to Practise Committee will consider the appeal and whether the following grounds for appeal have been met:

a that there has been a procedural irregularity of a material nature;

b that there is new evidence material to the case which the student can demonstrate was for good reason not previously available;

c that the action taken is out of proportion to the breach of the Code of Conduct that occurred.

G.3 The student will be informed in writing if there are no appropriate grounds to initiate the appeals process.

G.4 A student whose appeal is to be heard by the School Fitness to Practise Committee, shall be sent a written summons by the Secretary to appear before the Committee at least 15 days before the date of the hearing, The written summons is normally a letter sent by email to the student's Aston University email address..

G.5 The student shall have the right to submit a written statement outlining the grounds for appeal and to include any documentary evidence. Where witnesses are to be called a written witness statement must be submitted in advance.

G.6 In order to facilitate its investigations, the Committee shall have access to any material evidence it considers relevant and may require the attendance of witnesses who have given evidence to the Fitness to Practise Officer, or call additional witnesses and admit fresh evidence.

G.7 All documentary evidence from the Fitness to Practise Officer and the student must be submitted to the Secretary of the Fitness to Practise Committee at least seven days before the date of the hearing.

G.8 If the student does not appear on the date appointed and the Committee is satisfied that notice of the hearing was properly served, the Committee may proceed to deal with the appeal and, if necessary, set aside, vary or confirm the FPO's decision in the student's absence.

G.9 In addition to the written summons the student must be notified:

a of the membership of the Committee and the names of any witnesses to be called by the Committee in support of the School Fitness to Practise Committee's decision;

b that if the student believes any member of the Committee to have a conflict of interest; this must be lodged in writing with the Secretary giving the grounds for objection, at least seven days before the date of the hearing. The School's Executive Dean, or nominee, will decide in their absolute discretion on the validity of the grounds and any decision regarding membership will be final and binding on the student. No person previously involved in the earlier decision should be involved in the appeal decision-making process;

c that witnesses may be called by either the student or the Committee and that the student must inform the Secretary of the names of these witnesses and provide copies of witness statements at least seven days before the date of the hearing. Witness names shall be made available to all parties five days before the date of the hearing;

d that the student may submit written material in support of their appeal and this must be submitted to the Secretary at least seven days before the date of the hearing;

e that the student is expected to attend the hearing in person, may choose to be represented by another person, and may in addition be accompanied by a friend whose name(s) should be submitted to the Secretary at least seven days before the date of the hearing. If the student does not attend, the Committee shall proceed as specified in paragraph G.12 of these Regulations;

f that the student may approach a personal tutor, other members of the University or the Advice & Representation Centre in the Students' Union for advice as to procedure and the action which may be taken.

G.10 Members of the School Fitness to Practise Committee, the FPO, the student, and any person representing the student will have the following information available:

a a copy of papers submitted to the FPO and the FPO's report;

b the student's written grounds for appeal and any supporting papers;

c any additional papers submitted by the FPO;

d a copy of the Fitness to Practise Regulations and Code of Conduct;

e the name of any person(s) accompanying and/or representing the student;

f the names of witnesses to be called by either the student or the School Fitness to Practise Committee. Where witnesses are to be presented a written witness statement must be submitted in advance,

No documentation should be considered by the Committee without also being made available to the student and the Fitness to Practise Officer.

G.11 The School Fitness to Practise Committee may, at the start of the hearing, and at its discretion, decide to admit new evidence or hear witnesses not previously notified or for whom witness statements have not been obtained. A submission will be made to the Committee as to why the evidence should be admitted or witnesses heard.

G.12 The appeal is heard as follows:

a the grounds for the appeal are presented by the student or his/her representative; the Committee may admit any witnesses it judges relevant to the grounds of the appeal;

b the Fitness to Practise Officer details the case against the student; the Committee may admit any witnesses it judges relevant to the FPO's case;

c members of the Committee may ask questions of witnesses, the appellant, the Fitness to Practise Officer, or other participants only at the end of each stage of the hearing through the Chair, witnesses may be examined, cross-examined and re-examined;

d both the student, or the student's representative, and the Fitness to Practise Officer shall be allowed to make a final address, the student or their representative being allowed to make the final statement;

e the appellant, any person accompanying or representing the appellant, the Fitness to Practise Officer, and all witnesses shall withdraw while the Committee considers its decision.

G.13 The Committee will consider the evidence and may choose to reconvene the hearing at a later date in order to obtain further evidence or advice from other parties. Should this be the case, all parties will be invited to attend a reconvened meeting.

G.14 In considering the evidence, the Committee should consider the balance of probabilities. In reaching a decision about a student's conduct the Committee may take into account any record of previous misconduct, whether or not occurring on University premises and regardless of whether the student was a member of the University at the time. In reaching its decision, the Committee shall take into account any mitigating circumstances submitted by the student.

G.15 The Committee shall have the power to make the following decisions:

a to accept or reject the appeal in whole or in part;

b to confirm or set aside the Warning given;

c to agree an alternative outcome or outcomes as set out at E5.11.

G.16 In considering the evidence, the Committee should consider the balance of probabilities. The appeal shall not be accepted in whole or in part, the Warning set aside or any changes made to the appropriate course of action unless a majority of the voting members of the Committee present so decide; all members of the Committee have a vote and no abstentions are permitted.

G.17 The Chair will announce the Committee's decision, either by calling the parties together or in writing. The Secretary of the School Fitness to Practise Committee shall inform the student in writing of the Committee's decision within seven working days of the meeting giving the reasons for its decision.

PART H- Appeals to the University Fitness to Practise Committee

H.1 A University Fitness to Practise Committee shall be appointed by the Senate to consider appeals against the decisions of the School Fitness to Practise Committee where the committee has heard cases for the first time. The decision of the University Fitness to Practise Committee in such cases will be final and no further appeal shall be permitted within the University.

H.2 The University Fitness to Practise Committee will comprise:

- the Vice-Chancellor or nominee (Chair)
- two members of the academic staff from the School in which the student is enrolled, but not more than one from any programme of study;

the membership to be agreed by the Vice-Chancellor or nominee on behalf of the Senate;

In addition, the Committee may wish to consult placement providers, additional members of professional bodies, legal advisors or health or medical specialists.

The quorum of the Committee shall be the Chair plus 2 members.

The University Chief Operating Officer, or nominee, (Secretary) and the Chair of the School Fitness to Practise Committee will be in attendance.

H.3 All members will be asked to declare that they are free from any conflict of interest in the cases heard.

H.4 The Secretary to the Committee will report the Committee's decisions to Senate.

H.5 The student must make any appeal to the Secretary of the University Fitness to Practise Committee in writing within 10 days of the School Committee's decision being notified to the student. The student must state the grounds on which the appeal is made. The formal request from the student, and any supporting documentation, shall be copied to the Chair of the School Fitness to Practise Committee, who will be asked to provide a brief written report of the circumstances of the case. Where the appeal proceeds to a University Fitness to Practise Committee, the Chair will attend the hearing and the report shall be submitted to the student and Committee.

H.6 A student who has accepted that their fitness to practise is impaired may only appeal in mitigation of the School Fitness to Practise Committee's sanctions

H.7 The Chair and Secretary of the University Fitness to Practise Committee will consider whether there are valid grounds for an appeal, either that:

a that there has been a procedural irregularity of a material nature, including the commission of an error during the original meeting;

b that there is new evidence material to the case which the student can demonstrate was for good reason not previously available;

c that the action taken is out of proportion to the breach of the Code of Conduct that occurred.

The student will be informed in writing if there are no appropriate grounds to initiate the appeals process

H.8 A student whose appeal is to be heard by the University Fitness to Practise Committee, shall be sent a written summons by the Secretary to appear before the Committee at least 15 days before the date of the hearing, The written summons is normally a letter sent by email to the student's Aston University email address.

H.9 The student shall have the right to submit a written statement outlining the grounds for appeal and to include any documentary evidence. Where witnesses are to be called a written witness statement must be submitted in advance.

H.10 In order to facilitate its investigations, the Committee shall have access to any material evidence it considers relevant and may require the attendance of witnesses who have given evidence to the School committee, or call additional witnesses and admit fresh evidence.

H.11 All documentary evidence from the School Fitness to Practise Committee and the student must be submitted to the Secretary of the University Fitness to Practise Committee at least seven days before the date of the hearing.

H.12 In order to facilitate its investigations, the University Fitness to Practise Committee shall have access to any material evidence it considers relevant and may require the attendance of witnesses who have given evidence to the School Fitness to Practise Committee, or call additional witnesses and admit fresh evidence.

H.13 If the student does not appear on the date appointed and the Committee is satisfied that notice of the hearing was properly served, the Committee may proceed to deal with the appeal and, if necessary, set aside, vary or confirm the School Fitness to Practise Committee's decision in the student's absence.

H.14 In addition to the written summons the student must be notified:

a of the membership of the Committee and the names of any witnesses to be called by the Committee in support of the School Fitness to Practise Committee's decision;

b that if the student believes any member of the Committee to have a conflict of interest, this must be lodged in writing with the Secretary giving the grounds for objection, at least seven days before the date of the hearing. The University's Chief Operating Officer, or nominee, will decide in their absolute discretion on the validity of the grounds and any decision regarding membership will be final and binding on the student. No person who was a member of the School Fitness to Practise Committee or who was concerned in any way with earlier proceedings should be involved in the appeals decision-making process;

c that witnesses may be called by either the student or the University Fitness to Practise Committee, and that the student must inform the Secretary of the names of their witnesses and provide copies of witness statements at least seven days before the date of the hearing. Witness names shall be made available to all parties five days before the date of the hearing;

d that the student may submit written material in support of their appeal and this must be submitted to the Secretary at least seven days before the date of the hearing;

e that the student is expected to attend the hearing in person, may choose to be represented by another person and may in addition be accompanied by a friend whose name(s) should be submitted to the Secretary at least seven days before the date of the hearing. If the student does not attend, the Committee shall proceed as specified in paragraph H.17 of these Regulations;

f that the student may approach a personal tutor, other members of the University or the Advice & Representation Centre in the Students' Union for advice as to procedure and the action which may be taken.

H.15 Members of the University Fitness to Practise Committee, the Chair of the School Fitness to Practise Committee, the student, and any person representing the student will have the following information available:

a a copy of the Minutes of and papers submitted to the School Fitness to Practise Committee and the Chair's report;

b the student's written grounds for appeal and any supporting papers;

c any additional papers submitted by the Chair of the School Fitness to Practise Committee;

d a copy of the Fitness to Practise Regulations and Code of Conduct;

e the name of any person(s) accompanying and/or representing the student;

f the names of any witnesses to be called by either the student or the University Fitness to Practise Committee. Where witnesses are to be presented a written witness statement must be submitted in advance.

No documentation shall be considered by the Committee without also being made available to the student and the Chair of the School Fitness to Practise Committee.

All documentary evidence from the School Fitness to Practise Committee and the student must be submitted to the Secretary at least seven days before the date of the hearing.

H.16 The University Fitness to Practise Committee may, at the start of the hearing, and at its discretion, decide to admit new evidence or hear witnesses not previously notified or for whom witness statements have not been obtained. A submission will be made to the Committee as to why the evidence should be admitted or witnesses heard.

H.17 The appeal is heard as follows:

a the grounds for the appeal are presented by the student or his/her representative; the Committee may admit any witnesses it judges relevant to the grounds of the appeal;

b the Chair of the School Fitness to Practise Committee will give a response: the Committee will admit any witnesses it judges relevant to the School's case;

c members of the Committee may ask questions of witnesses, the appellant, the Chair of the School Fitness to Practise Committee or other participants only at the end of each stage of the hearing through the Chair, where witnesses may be examined, cross-examined and re-examined;

d both the student, or the student's representative, and the Chair of the School Fitness to Practise Committee shall be allowed to make a final address, the student or their representative being allowed to make the final statement;

e the appellant, any person accompanying or representing the appellant, the Chair of the School Fitness to Practise Committee, and all witnesses shall withdraw while the Committee considers its decision.

H.18 The Committee will consider the evidence and may at this stage choose to reconvene the hearing at a later date in order to obtain further evidence or advice from other parties. Should this be the case, all parties will be invited to attend a reconvened meeting.

H.19 In considering the evidence, the Committee should consider the balance of probabilities. In reaching a decision on a case relating to a student's conduct the Committee may take into account any record of previous misconduct, whether or not occurring on University premises and regardless of whether the student was a member of the University at the time. In reaching its decision, the Committee shall take into account any mitigating circumstances submitted by the student. Fitness to Practise shall not be considered to be impaired, any Warning set aside or any changes made to the appropriate course of action unless a majority of the voting members of the Committee present so decide; all members of the Committee have a vote and no abstentions are permitted. Any sanctions shall be decided by the same voting procedure.

H.20 The Committee shall have the power to make one of the following decisions:

a to accept or reject the appeal in whole or in part;

b to set aside, vary (including increasing or decreasing the severity of the original decisions) or confirm the School Fitness to Practise Committee's decision.

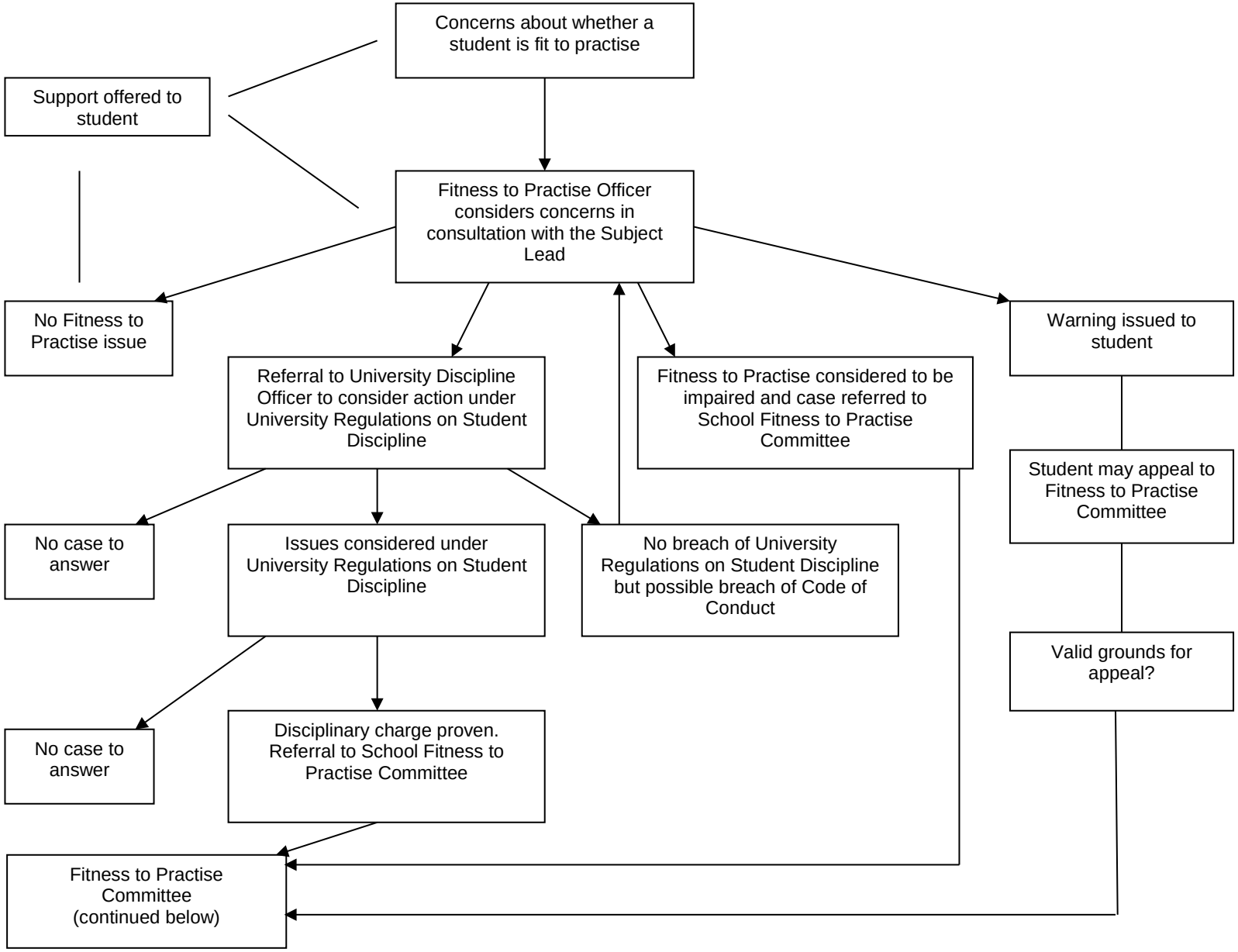
H.21 The Chair will announce the Committee's decision, either by calling the parties together or in writing. A record of the proceedings shall be kept by the Secretary to the Committee who shall inform the student in writing of the Committee's decision within seven working days of the meeting; the student shall be informed of the reasons for the decision.

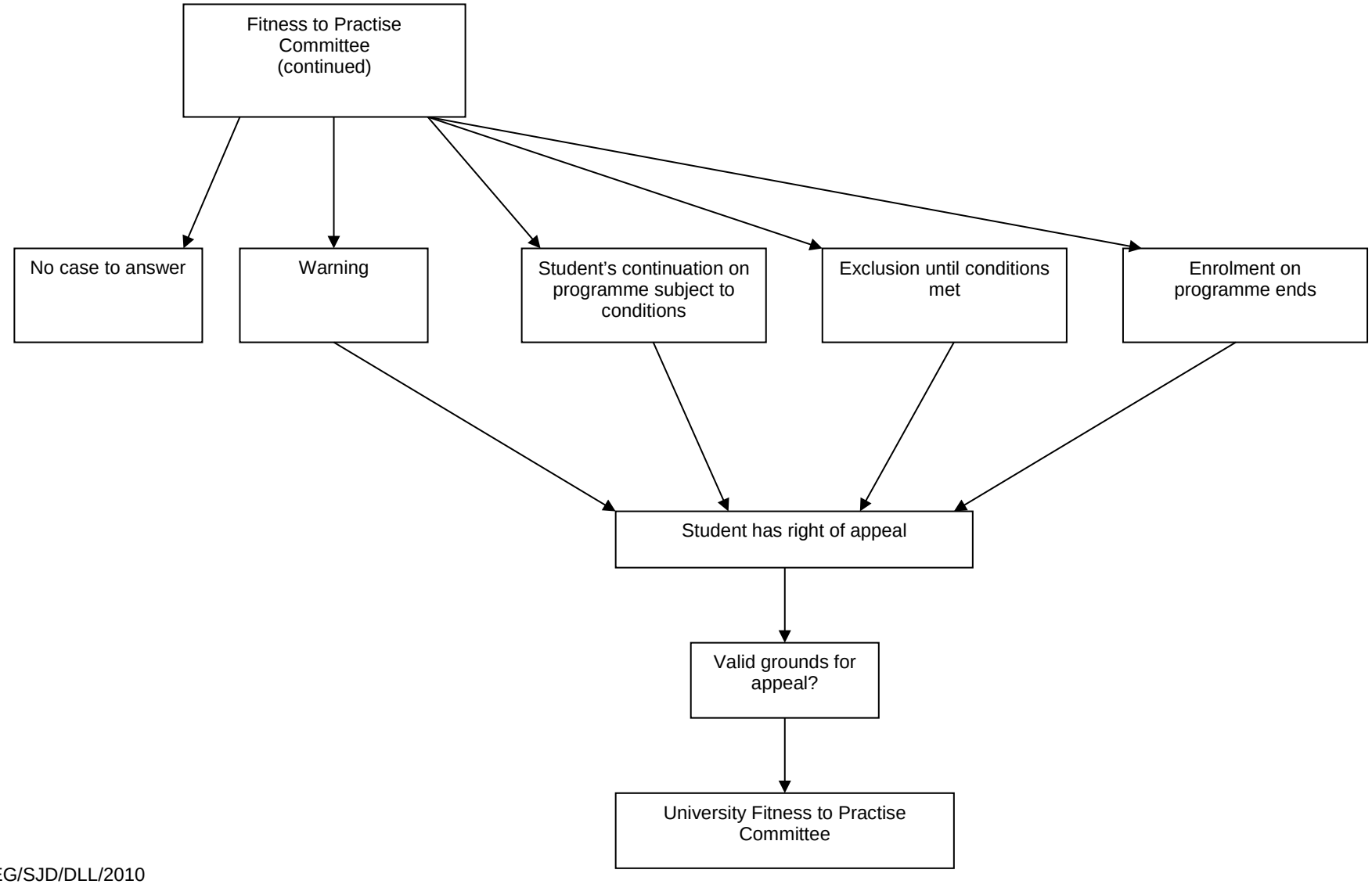
PART I - Office of the Independent Adjudicator for Higher Education (OIA)

If a student is not satisfied with the way that the University has considered their appeal they may apply to the Office of the Independent Adjudicator (OIA) for an independent review of the case. The OIA operates an independent student complaints scheme pursuant to the Higher Education Act 2004. The OIA will normally review a case only if all internal University procedures have been exhausted.

Complainants who are considering an application to the OIA should be advised to contact the Chief Operating Officer, or their nominee, to confirm that this is the case and to obtain a 'completion of procedures letter', if this has not already been provided. If a student requires assistance in submitting a complaint they may wish to contact the Students' Advice & Representation Centre in the Students' Union. The University is required to comply with the rules of the OIA's scheme. The service provided by the OIA is free to students.

SUMMARY OF PROCEDURES IN THE REGULATIONS ON FITNESS TO PRACTISE





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