

# Academic Policies and Procedures

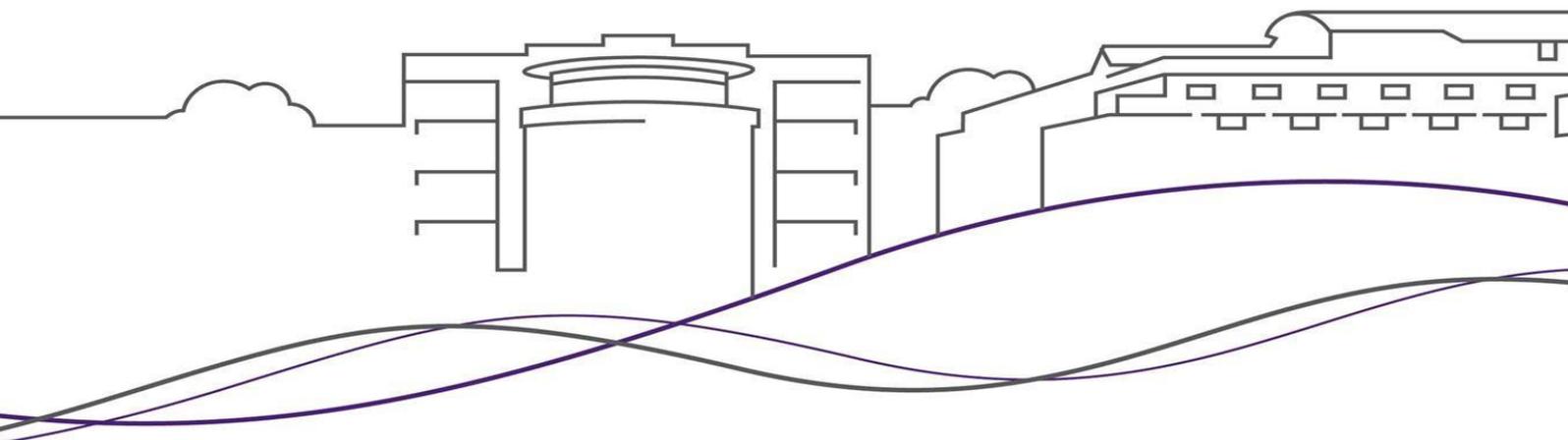


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SOUTH DEVON

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HIGHER EDUCATION

## (HEAPP6) Fitness to Practise and Cause for Concern Procedure v3.1



## Document Control

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# Fitness to Practise and Cause for Concern Procedure

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# 1. Introduction, background and definitions

There is a reasonable public and professional expectation that the programmes that have a professional registration should only grant a qualification, which essentially awards the student with a 'license to practise', and that this should only be bestowed to those who meet at least the minimum requirements to practise safely and at competent level at all times.

As a result of this, the assessment process cannot be purely based on academic standards or key skills based on principal practise but must also include ongoing requirement that the student is in point of fact 'fit to practise'.

The concept of fitness to practise is shaped by a combination of factors, which when drawn together indicate that the person in question can safely and competently fulfil the role required of them at that point both academically and practically in the workplace. These factors may include some or all of the following:

1. Health - Mental and Physical
2. Ethical behaviour
3. Practical competence
4. Ability to perform and maintain effective therapeutic/learning relationships
5. Ability to accept and learn from feedback
6. Professionalism

Whilst the ultimate responsibility for their "fitness to practise" must lie with each individual, student programmes have a responsibility to promote, facilitate and ultimately enforce high standards in the Professional Practise field so as to protect the people we serve, the professions we teach, the University Centre South Devon, ourselves and our students.

It is important to note that both the roles of "student" and "trainee healthcare professional" are very demanding: not simply academically but also personally, emotionally and ethically. The very process of engaging in the assistant practitioner training can be one factor which pushes a person beyond being "fit to practise". For this amongst other factors, is the reason why the process of assessing "Fitness to Practise" must be ongoing throughout the duration of the course.

## 2. Principles

Students, tutors, University Centre South Devon have a responsibility to do everything reasonable to ensure that those people given a license to practise are competent, safe, effective and ethically appropriate: that is they are "*fit to practise*".

Students, tutors, University Centre South Devon have a responsibility to do everything possible to ensure that those people invited to join and participate in professional training are competent to safely and ethically: that is they are "*fit to practise*".

Students have the right to expect that they will be treated reasonably, ethically and with compassion should any question at all arise about their “fitness to practise” or “fitness to learn how to practise” (jointly termed “fitness” throughout the rest of this protocol).

Promoting and assessing “fitness to practise” is a notion which runs through all aspects of the course design and process. This must begin at the interview stage, be a major component of the ongoing tutor-student relationship, which is then carried forward to the professional placement where the tutor-student-placement supervisor/mentor relationship is maintained. These will be a major consideration in every decision made by the course.

Wherever possible, concerns about a student’s fitness either raised by a tutor or placement supervisor/mentor should be shared with that student in a constructive way and at the earliest possible opportunity.

All reasonable efforts should be made to ensure that any student whose professional or academic conduct or ability has been questioned under the “fitness to practise” policy must be given the support needed to address these issues. Fitness applies throughout the course. Issues will be addressed from year one with the focus carrying through to year two. Students will be expected to make a yearly declaration that they believe they are indeed “fit to practise”. Evidence that is brought to light over the period of the academic year should be disclosed as early as possible to those staff responsible for placement coordination.

The students will be informed of the Fitness to Practise Policy during the first week of study of the second year of study. The student’s placement supervisor/mentor will be informed by the health team of any concerns raised and a meeting arranged as soon as possible and convenient to both the student and the supervisor. There will be an allocated time during the regular placement visits where the placement coordinator will be available to the placement supervisor/mentor to discuss any issues that have arisen on placement. The disclosure of any concerns by the placement mentor/supervisor is not restricted solely to placement visits but may also be raised at any point via telephone or email in strict confidence.

Students, tutors, placement mentors/supervisors and the practitioner based programmes course will offer as much support as deemed appropriate to students who are struggling with fitness issues.

Where a student is unable or unwilling to address issues surrounding fitness then the Clinical Education Team may take measures, as set out in this procedure, which whilst aimed at enabling the student to achieve “fitness” could ultimately lead to the student terminating their study if this is not possible.

### 3. Process

There will be three linked stages to this process:

1. **Stage One Early Resolution - Universal** - This describes the processes that will be used to ensure that “fitness” is promoted, facilitates and monitored across the whole course.
2. **Stage Two - Minor Concerns** - This describes the process that will be used to address concerns which are relatively minor and which are not persistent.
3. **Stage Three - Major or Persistent Concerns** - This described the process that will be used to deal with serious concerns or with minor concerns that have continued despite any actions taken under the minor concerns process.

#### 3.1 Stage One Early Resolution

The Programme Coordinator and Higher Education Lead, or designated substitute, will take steps to ensure that “fitness” is promoted, facilitated and monitored in every aspect of the team’s work. In order to achieve this they will ensure that:

1. “Fitness” is explored with every candidate during the interview process. At the interview stage the onus will be on the candidate to demonstrate their fitness and any concerns should be actively investigated. It may well be that such concerns lead to an otherwise “suitable” candidate being deferred, rejected or offered a conditional place.
2. During induction the concept of Fitness is introduced and the student’s responsibilities are explained alongside outlining the systems available to support them. This should include discussion of relevant professional ethical codes.
3. During tutorials throughout the year the programme teams will prompt a discussion with students around the issues of “fitness”.
4. The academic team model the highest possible standards in terms of their own “fitness ad that the culture of the course promotes this.
5. Each module devises reviews and revises its own “fitness” action plan as part of the APM.

## 3.2 Stage Two Minor Concerns

**Definition** - A minor concern is something which if unaddressed is likely to undermine the student's ability to practise and/or learn competently and/or ethically, but which:

1. Does not present an identifiable risk to the safety of anyone involved, (including the student) *and*
2. Is not persistent *and*
3. Is accepted as a legitimate concern by the student

This may include:

1. **Minor unethical behaviour** - this might include apparently discriminatory behaviour, lying, not maintaining appropriate confidentiality, dishonest, minor criminal behaviour, display of inappropriate language.
2. **Not maintaining appropriate boundaries** - This might include inappropriate self-disclosure, inability to contain own emotional process, inappropriate sexual boundaries etc.
3. **Not forming and maintaining constructive relationships with others** - This might include emotional withdrawal from the cohort or from peers, colleagues or patients, bullying, over eagerness to "rescue" etc.
4. **Not engaging with constructive feedback** - This might include defensiveness to feedback or paying lip service to what is said rather than actively considering it.
5. **Not being able to constructively engage with teaching or exercises** - This might include being unable to take part or failing to engage at a sufficiently deep level.
6. **Excessive absence** - this might include concerns raised by host departments with regards to the level of leave due to sickness that a student may take in a period of time whilst on placement. Also behaviour such as leaving early, malingering and avoidance will be taken into account.
7. **Lack of consistent and appropriate progress** - this might include the inability to achieve targets of clinical competency agreed with placement mentor/supervisors. This can only be adhered to if the student has been provided with the appropriate opportunity to develop these skills within their host department.

## 3.3 Process for formulating an Action Plan

The stage 2 process will be led by the Head of Curriculum or their designated substitute.

A minor concern may be brought to the attention of the course through a range of methods including:

1. University/College Tutor Observation
2. Self-reporting by the student
3. Reports from other students
4. Reports from placement mentors/supervisors
5. Reports from elsewhere including the public (patients) or relatives

The source of the concern will be from the cause for concern procedure and it should be recorded in writing on the students files and brought to their attention by their personal tutor(s) or a member of the team as soon as practicable possible. The aim of doing this is to formulate an agreed Action Plan setting out a way to resolve the concerns constructively.

Individuals who raise concerns about students should be made aware that their concerns will be shared with the student in a positive and constructive way.

In discussing the concern with the student involved the tutor or member of the team should:

1. Ensure that the student has understood the concern and is helped to present his or her perspective on the issues
2. Allow the student sufficient time to consider their response to the issue and arrange to meet at a later date
3. Keep a note of the main points of the discussion which should be part of the tutorials notes and countersigned by the student,
4. Agree with the student what action they will take to address the concerns and what assistance they will receive from the University Centre South Devon.
5. Agree a time when progress with the issue will be reviewed and what the criteria for considering resolved will be.
6. Ensure that the student understand what may happen if the concern if not resolved.

If after due consideration and discussion the student is not willing to accept the concern as valid so is not able to address it, stage three of this process should be followed.

### **3.4 Action Plan Review**

University Centre South Devon tutors should ensure that action plans are reviewed as agreed at the appropriate time.

If after the agreed action plan is reviewed, the issue is agreed and resolved this should be recorded. It is also possible that good progress has been made, but that the issue is not yet resolved, in which case **one** further action plan and review can be agreed, in which both the student and team tutor(s) strive for the issue to be resolved.

If after the agreed action plan is reviewed, the tutor or the health team feels that insufficient progress has been made toward resolution, then the Head of Curriculum or designated substitute may initiate stage three of this process. If sufficient progress has been made the student will be notified.

### 3.5 Stage Three - Major or Persistent Concerns

**Definition** - A major concern is something which if unaddressed is likely to or which already has undermined the student's ability to practise and/or learn competently and/or ethically, and which:

1. **Presents an identifiable risk to the safety of anyone involved (including the student) or**
2. **Is a persistent minor concern or**
3. **Is a minor concern not accepted as a legitimate concern by the student**

This may include the following:

1. **Consistent or serious unethical behaviour** - this might include discriminatory behaviour, lying, dishonesty, not maintaining appropriate confidentiality, criminal behaviour, inappropriate display of language.
2. **Not maintaining appropriate boundaries** - this might include inappropriate self-disclosure, inability to contain own emotional process, inappropriate sexual boundaries etc.
3. **Not forming and maintaining constructive relationships with others** - This might include marked emotional withdrawal from the cohort or from peers, colleagues or patients, bullying, over eagerness to "rescue" etc.
4. **Not engaging with constructive feedback** - this might include extreme defensiveness to feedback or paying lip service to what is said rather than actively considering it
5. **Not being able to constructively engage with teaching or exercises** - this might include being consistently too distressed to take part or failing to engage at a sufficiently deep level

Whilst the major concerns process is ongoing, the student will not be allowed to continue to practise on their placement.

## 4. Initial Process

Any team tutor, placement mentor/supervisor, member of staff or student who becomes aware of a potential major "fitness to practise" issue should discuss their concerns with the Programme Coordinator as soon as possible, who will in turn escalate these concerns to the Head of Curriculum, or designated substitute. The concern should be raised in writing via the cause for Concern Procedure.

The purpose of this discussion should be to:

- a) Make the Head of Curriculum aware that there is a fitness issue
- b) Explore the possible impact of the issue on the individual concerned, potential patients/service user, host department, section, other students, staff, the wider University Centre South Devon the profession and the public
- c) Reach a conclusion about what needs to happen next including:
  - i. Any immediate action which will be taken to contain the situation whilst a longer term solution is sought
  - ii. Any further information that is required
  - iii. Who needs to be informed of what is happening, for example the police, social services, local trust and occupational health services
  - iv. Who will be responsible for each of the identified tasks

As a general rule the person about whom the concerns regarding fitness have been raised should be made aware of these at the earliest possible occasion and their views on the issues raised sought. If the student is on placement, they must be contacted by telephone immediately and a meeting at the University Centre South Devon be arranged as soon as appropriately possible.

There are however times when exception should be made for this rule. For instance, where making the individual aware of the concerns might compromise their or another's safety or wellbeing (potential suicide, child abuse cases etc.).

Where a decision is made to exclude the student concerned from knowing the concerns have been raised this must be agreed with the Head or Manager of the host department or ward, Programme Coordinator and Head of Section, or designated substitutes.

## **5. Next Steps**

If following the initial meeting a decision is taken that the issues of concern raised are such that they can be managed safely within the resources available to the course then the Minor Concern process above should be followed. If not Major Concerns process should be followed.

### **Concerns by the Fitness to Practise Committee**

All Major Concerns will be put to a FTP Committee for resolution.

### **Composition of FTP Committee (the "Committee")**

The Committee comprises of six people. The Panel is made up of:

- a. The Head of Higher Education or designated substitute representative (chair)
- b. A representative of the profession - for health this will be at Band 7 or above and impartial, not from the host department
- c. A UCSD representative that may include Head of Curriculum or Higher Education Coordinator, or designated substitute
- d. The Head of Curriculum, or designated substitute
- e. An Administrator

**In the event of the committee being divided in its view, the chair will have a casting vote.**

### **Representation for the Student**

The student may be present at the Committee hearing and may be accompanied by an adviser, friend or other representative. If the student wishes to be legally represented he or she must request approval via the administrator, as soon as possible and in any event not later than two weeks prior to the hearing. The Chair of the hearing will decide whether to permit the request, where there are good reasons to do so.

### **Standard of Proof**

The Committee will only impose a penalty upon a student if on the evidence before it, it is satisfied on the balance of probabilities that the concerns raised are proved.

### **Procedure**

Subject to the provisions of this procedure, the conduct and order of the proceedings shall be at the discretion of the Committee. The Committee may ask for additional enquiries to be undertaken and may call for additional witnesses to attend. It may adjourn proceedings if it considers it in the interests of justice to do so.

### **Joint Hearings**

If two or more students are involved in related cases the Committee may at its discretion, deal with their cases together.

### **New Hearing**

The Committee will rely on evidence presented at the hearing. The deliberations and decision of anyone previously considering the matter shall be irrelevant for the committee purposes.

## **Written Allegations**

The Committee will ask the Programme Coordinator or his or her representative to set out the concerns relating to the student in writing in advance of the hearing. A copy will be sent to the student at least three weeks before the hearing.

## **Witness Evidence**

The student will be informed at two weeks in advance of the hearing of any witnesses who have been nominated/called by the Head of Curriculum or the Chair of the Committee, or designated substitutes. The student and/or his or her representative must inform the administrator, at least two weeks in advance of the hearing, of any witnesses that they wish to nominate/call.

The Head of Curriculum, or designated substitute, may call for written witness statements in support of the allegation in advance of the hearing. If such statements are obtained, members of the Committee will be entitled to see them in advance of the hearing and copies will be made available to the student and to the chair at least one week before the hearing.

Witness evidence presented at the hearing will normally be oral given by witnesses appearing in person even if witness statements have been provided prior to the hearing. The committee may accept a witness's written statement in evidence where both parties agree that the witness need not attend, or where it is impracticable for the witness to attend, or where in the opinion of the Committee it is for some other reason in the interests of justice to do so.

## **Written Submission to the Committee**

Either the programme coordinator or the student may make a written submission to the Committee. Any such submission must be made available to the Committee at least seven days before the hearing and a copy will be made available to the Programme Coordinator or the student.

## **Documentary Evidence**

Any documentary evidence must be submitted in advance of the hearing and copies will be made available to members of the Committee and to all parties at least one week before the hearing. Documentary evidence submitted late will only be admitted with the Permission of the Committee.

Evidence may also be in the form of medical or other reports, by consenting to the preparation of medical or other reports, the student is consenting to the FTP Committee having access to such reports.

## **Opening and Closing Addresses**

The Programme Coordinator will be asked to address the committee calling witnesses. The student, or his or her representative, will be asked to address the Committee before calling witnesses.

## **Submission that there is no case to Answer**

At the conclusion of both parties evidence the Committee will make its decision as to whether the allegation(s) have been proved. If the Committee decides that the allegation(s) are proved the student or his or her representative, will be entitled to address the Committee concerning penalties. If the Committee find on the evidence that there is no case to answer it must dismiss the allegation(s).

## **Mitigation**

At the conclusion of both parties evidence the Committee will make its decision as to whether the allegation(s) have been proved. If the Committee decides that the allegation(s) are proved the student or his or her representative, will be entitled to address the Committee concerning penalties.

## **Time Limits**

The Committee may impose time limits on oral addresses and submissions.

## **Witnesses in support of the Allegation**

The allegations against the student will be put first. The panel will ask questions of each witness giving evidence in support of the allegation. The witness may be cross-examined by the student or his or her representative. Witnesses may be re-examined, but concerning only those matters raised in cross examination, for the purpose of clarification.

## **Witnesses against the Allegation**

If the case proceeds, the student may then give evidence. At the conclusion of the student's evidence he or she may be cross examined by the chair. The student may give evidence to clarify matters raised in cross-examination. The student, or his or her representative, may call further witnesses, who may be similarly cross-examined and re-examined. The representative may not give evidence on behalf of the student.

## **Recall of Witnesses**

A witness may be recalled to give further evidence only with leave of the Committee

## **Relevance**

The Committee will refuse to admit evidence that is in its opinion irrelevant to the issues raised

## **Adjournments**

The Committee shall have the power to adjourn hearing to another date, as it thinks fit.

## **Report**

The Chair of the Committee will write a short report, setting out the allegation(s), the grounds for concerns, a brief summary of the evidence, the decision of the Committee and the reasons for the decision. A copy of the report will be sent to the panel members.

## **Outcomes**

The FTP Committee may make one or more of the following decisions:

- a. To issue no warning or sanction
- b. To issue a warning
- c. To impose an action plan - this will then be managed as for minor concerns
- d. To terminate the student from the programme
- e. To refer the student to a disability panel

The student will normally be informed orally of the outcome immediately after the hearing. The student will receive a copy of the report referred above shortly after (normally within 14 days).

If there are any further actions to be taken these will be the responsibility of the student, the Higher Education Manager and other relevant members of staff as directed by the FTP Committee.

The reporter of the concern will be informed that the issue has been dealt with.

## **6. Appeal**

Students have the right to appeal against any decision taken under these procedures. Appeals will only be accepted if there is evidence of procedural irregularity, bias or, or if the student submits further material circumstances which could not reasonably have been expected to have been submitted for consideration at the case conference. Guidance on the grounds for appeal and an appeal pro-forma are available from the [university@southdevon.ac.uk](mailto:university@southdevon.ac.uk)

## **Appeals against interruption**

Appeals against interruption must be made in writing to the Higher Education Faculty Office within 10 working days of notification of the interruption clearly outlining the grounds for appeal. The Higher Education Faculty Office will prepare an appeal file for consideration by the Vice Principal of Curriculum, or designated substitute.

The Vice Principal of Curriculum, or designated substitute will review the appeal and may overturn the decision to interrupt a student if they believe it appropriate. The decision of the Vice Principal Curriculum, or designated substitute, will be final.

Where a student's appeal is rejected, a Completion of Procedures letter will be issued.

## **Appeals against withdrawal**

Appeals against withdrawal must be made in writing to the Higher Education Faculty Office within 10 working days of notification of the interruption clearly outlining the grounds for appeal. The Higher Education Faculty Office will prepare an appeal file for consideration by the Vice Principal Curriculum.

The Vice Principal Curriculum will review the appeal and may overturn the decision to interrupt a student if they believe it appropriate. The decision of the Vice Principal Curriculum will be final.

## **Office of the Independent Adjudicator (OIA)**

If, after exhausting the Appeals process, the student remains dissatisfied with the College's final decision they may submit a complaint to the Office of the Independent Adjudicator for Higher Education. Contact details for the Independent Adjudicator are:

Office of the Independent Adjudicator  
3rd Floor Kings Reach  
38 - 50 Kings Road  
Reading  
RG1 3AA

Tel: 01189 599813

Email: [enquiries@oiahe.org.uk](mailto:enquiries@oiahe.org.uk)

## **7. Review of this procedure**

This procedure and procedures will be reviewed at Higher Education Academic Board, where an annual report will be produced.

## **8. Healthcare and Professional practitioner based programmes: Cause for Concern procedure**

### **What ‘Cause for Concern’ means**

The full title is “Cause for Concern” about progress towards achieving the statutory standards for the award of Healthcare and Professional practitioner based programmes”.

The required standards are set out in the Skills for Health benchmarks and any affiliated professional benchmarks, supported by the competency documents, and are those currently in force as a condition to graduate and practise as an Assistant Practitioner. Successful completion of the Healthcare and Professional practitioner based programmes requires a student to achieve **all** the competencies and professional practise and skills, as defined in the Healthcare and Professional practitioner based programmes Quality Handbook.

The “Cause for Concern” designation is therefore considered when the progress of a student on the Healthcare and Professional practitioner based programmes course is regarded as falling short of what is required to achieve **one or more** of the required standards. There can be Cause for Concern about any of the competencies, and exclusively related to placement. A Cause for Concern could, therefore, relate to a student’s personal and professional conduct. The concern could arise at any point in the Healthcare and Professional practitioner based programmes course, and not only in periods of clinical experience.

### **Early Identification of Cause for Concern**

Being formally notified that progress is considered to be “Cause for Concern” does not mean that failure of the Healthcare and Professional practitioner based programmes course is inevitable. Implementation of the procedure is the trigger for specific additional training and support in order to assist the student to complete the course successfully. The emphasis is therefore squarely on **early identification** of problems.

This particularly applies to progress on placement during any periods of professional experience in partnership Healthcare and Professional practitioner and clinical settings. It is important to identify problems which are serious enough to raise “Cause for Concern” about the achievement of competencies at a point which wherever possible allows the student to demonstrate progress before the next planned review point. However, where the “Cause for Concern” procedure is applied within the first three months of either academic year, it is likely that there will be insufficient time for demonstrable progress. In this case the Action Plan will be carried forward to the second three months of the placement and reviewed at an agreed point.

**Except in the case of some gross failure, the Cause for Concern procedure should normally always be implemented.**

## **Supporting students whose progress is “Cause for Concern”**

A student whose progress is considered to be Cause for Concern will normally have been seen by the Placement Supervisor/Mentor and the Placement Coordinator. The typical situation is that even though there will be evidence of support and guidance from supervisors/mentors and tutors, the student will appear unable or unwilling to respond to this guidance, or unsuccessful in making sufficient improvement in relation to it, and therefore still experiencing difficulties.

Students in this position often recover when they are jolted into a realisation that real development - and change - are necessary. It must be remembered that what may assist students to make the necessary progress will require unique definition in each case. Some learn most by observing other practitioners and trying out their ideas, others can talk through alternative strategies. Dialogue with mentors is crucial in bringing about recovery, and one fairly certain sign of real difficulty may be a student’s inability to engage in proper dialogue, or to respond constructively to advice or specifications about action to improve progress.

### **Action Plan**

The setting of an Action Plan is an essential component of the procedure. It should contain:

- A statement of the principal reason(s) for the concern(s);
- A specification of the action required for the student to achieve the required standards

The specification may include special requirement regarding coursework and/or practical teaching and/or any other aspect(s) of the student’s progress at the discretion of the Healthcare and Professional practitioner based programmes tutors, and in case of progress within placement, in negotiation with placement supervisors/mentors.

### **Implementation of the “Cause for Concern” procedure within placement**

1. Concerns about student’s competence(s) are identified by placement coordinator and/or the student’s placement supervisor/mentor, and shared with the student.
2. In the case of concerns arising during placement, the placement coordinator is contacted.
3. A joint (placement coordinator/ placement supervisor/mentor) decision taken to implement the Cause for Concern procedure and Healthcare and Professional practitioner based programmes Programme Coordinator informed.
4. The student is notified in writing as one whose progress towards achieving the statutory standards for the award of Healthcare and Professional practitioner based programmes is giving Cause for Concern
5. An Action Plan of support and specific targets for improvement given to the student

6. Progress is closely monitored and documented
7. There is a review of progress and reconsideration of position.
8. At review either:
  - a. There is removal from “Cause for Concern” if progress and improvement are satisfactory;
    - The student is notified of satisfactory improvement and suspension of the procedure
    - Appropriate review point reports completed

Or:

- b. There is confirmation of “Cause for Concern” designation of concern remain
    - Programme Coordinator informed and records continuing Cause for Concern status
    - The Action Plan is reviewed
    - Review Point report(s) (and any other relevant documentation) returned to Health Team.

In the case of Cause for Concern continuing or accelerating

- Placement coordinator arranges to visit the placement and written notification of this is given to the student
- The placement coordinator observes the student, and talks to the placement supervisor/mentor, prior to preparing a report for the FTP panel
- The FTP Committee reviews all of the reports and evidence of progress and makes a recommendation based on this evidence, which may include implementation of the procedure for termination of student’s programme of study
- The student is informed of the outcome of the FTP panel and counselled regarding further action, as appropriate