



Fitness to Study Policy and Procedure

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1. Policy scope

- 1.1 These procedures apply to students on Further Education, Apprenticeships and Higher Education programmes, studying either full-time or part-time.
- 1.2 The procedure is designed to ensure that any concerns related to a student's ability to study are managed and addressed in a timely, equitable and supportive manner.
- 1.3 This procedure should only be used in exceptional cases where other UCQ policies or procedures are inappropriate, for example if, at any time in the opinion of UCQ Senior Leadership Team (SLT), it is more appropriate to proceed under the Student Disciplinary Policy and Procedure or other associated policies, UCQ shall have the right to do so.

2. Definition of Fitness to Study

- 2.1 Fitness to Study relates to an individual's capacity and ability to engage safely and satisfactorily as a student, in relation to academic, social, enrichment and community life at UCQ where appropriate. UCQ will provide a positive approach to the management of their physical and mental health issues and act to support a student's learning, academic achievement and enhancement of their UCQ experience.
- 2.2 A student may be deemed unfit to study where they are unable to meet the above definition and/or where one or several of the following criteria apply:
 - 2.2.1 The student is unable actively to engage in their programme of study, to attend classes or meetings with tutors or supervisors or to spend sufficient regular time in private study in such a way as to enable them to succeed;
 - 2.2.2 The student's continued study is likely detrimentally to affect their health and wellbeing;
 - 2.2.3 The student's continued study is likely to have a detrimental impact on fellow students, staff or UCQ's external partners;
 - 2.2.4 The adjustments required in respect of the student's disability (including mental health difficulty) have become unreasonable.

3. Principles

- 3.1 The procedure is informed by the following principles:
 - 3.1.1 All students at UCQ must be able to meet the requirements of study as set out in the General Regulations framework
 - 3.1.2 Where disability (including a long-term medical condition or mental health difficulty) as defined under the Equality Act 2010 may be a determining factor in a student's fitness to study, UCQ will make all reasonable adjustments to support the student in continuing to study. All applications for reasonable adjustments should be made through the UCQ Reasonable Adjustments Policy.

- 3.1.3 Fitness to Study procedures are dealt with in accordance with natural justice in a fair and equitable manner, providing an appropriate, proportionate, prompt and flexible response to serious concerns about a student's fitness to study.
- 3.1.4 The process followed to determine a student's fitness to study will be staged (with the possibility for immediate escalation) as set out below.
- 3.1.5 Wherever possible the student will be fully involved in each stage of the procedure.
- 3.1.6 UCQ will discharge its duty of care and legal obligations where there are serious or severe concerns.

4 Roles and responsibilities

- 4.1 Staff who have any serious or severe concerns about a student's health or behaviour should consider the use of this procedure.
- 4.2 All declarations and disclosures relating to this procedure should be referred to the SLT for discussion. They will be added to the Student Safeguarding and Behaviours Log if the student enrolls. The SLT meet regularly throughout the year to review all applications from students who may have additional needs and requirements; these include all serious or severe health declarations.
- 4.3 Referrals to the SLT can be made by a member of Student Services or a Course Tutor.
- 4.4 Applicants are expected to declare any health conditions, failure to disclose may result in their applications being put in jeopardy.
- 4.5 Following panel decisions the SLT will communicate with individual students. In regards to successful applications, additional requirements or reasonable adjustments may be necessary. These may include individual risk assessments and/or UCQ care and/or behaviour plans.
- 4.6 Health concerns may develop or become apparent throughout the year and these should be recorded on the Student Safeguarding and Behaviours Log by the SLT.
- 4.7 Applicants, their parents/guardians, health professionals and other external representatives may contribute to these requirements.
- 4.8 When an applicant presents profound or complex needs in relation to their health, violent or sexual behaviour, the SLT may recommend that UCQ may not be an appropriate place for this applicant to study.
- 4.9 For higher education students on professionally regulated courses there will be consideration of any implications for professional practice and, if so, whether the Fitness to Practice procedure of the Open University should be invoked.

5 Legislation/data protection/confidentiality

- 5.1 Students with mental and physical health conditions are entitled to reasonable adjustments and appropriate support in relation to relevant legislation e.g. the Health and Safety at Work Act 1974, the Equality Act 2010, Keeping Children Safe in Education and the SEND Code of Practice. All personal and sensitive information will be managed in accordance with the Data Protection Act 2018 and the common law of confidentiality.
- 5.2 There may be occasion where UCQ is obliged to disclose information, notwithstanding that the student has refused consent:
 - 3.2.1 Where the student's behaviour threatens their safety or safeguarding, and that of others; or
 - 3.2.2 Where UCQ would be liable to civil or criminal liability for failure to disclose

6 Procedure

- 6.1 The aim of this procedure is to promote and provide positive attitudes to students whose health or wellbeing is having a detrimental impact on their (or others') studies. This procedure can be used to support students when they present a risk to themselves and/or others. UCQ has a 'duty of care' to respond appropriately to situations where there are severe or serious concerns relating to a student's mental capacity and the impact that it may have upon that individual and other members of the UCQ community.
- 6.2 This procedure will be used to deal with instances which have led to:
 - 6.2.1 Concerns about a student's fitness to study at UCQ and/or ability to meet the learning outcomes of the course, notwithstanding reasonable adjustments.
 - 6.2.2 A negative impact on the health, safety, wellbeing and/or learning of the student and/or others with whom they have contact.
- 6.3 This procedure is intended to make decisions which are non-judgemental and non-discriminatory whilst being consistent and sensitive, with the appropriate level of intervention. UCQ may refer individuals to external professional support and they may be asked to supply written confirmation in relation to an individual's fitness to study. If early intervention measures are put in place and recommendations for support followed, a crisis situation can be avoided.
- 6.4 There may be circumstances where there appears to be conflict between a student's fitness to study and the health and safety of that individual, other students and employees. All cases will be reviewed on an individual basis.
- 6.5 **Stage 1: Informal Intervention**
 - 6.5.1 Where staff have concerns that a student may not be Fit to Study as outlined above, the Tutor or other appropriate staff member should meet with the student to discuss the concerns and develop a plan of action, in agreement with the student and colleagues from professional services where appropriate. Actions may include steps to be taken by students and/or adjustments to be made by UCQ in order to facilitate a student's progress (in particular in relation to a disability or mental-health-related issue).

- 6.5.2 A written record of the meeting and of any agreed actions should be kept.
- 6.5.3 A review date should be set and agreed with the student.
- 6.5.4 At the review meeting, progress against actions should be assessed. If the concern is still not resolved the case may be escalated through the formal Fitness to Study process as outlined below.

6.6 Stage 2: Formal Fitness to Study Procedure

- 6.6.1 The formal process should be instigated where there are serious and persistent concerns about a student's ability to meet the criteria for Fitness to Study which have not been resolved through the informal steps.
- 6.6.2 The student should be formally notified in writing that the Fitness to Study Procedure is being instigated and should be provided with a copy or link to this procedure. The nature of the specific concerns should be outlined to him/her in this communication and the student should be advised that he/she may be accompanied to a meeting with two members of staff. The student should normally be given 5 working days' notice of the meeting unless there is an urgent reason to call it in a shorter timescale.
- 6.6.3 The student will be invited to a meeting with two members of staff from UCQ, nominated by the SLT as appropriate.
- 6.6.4 At the meeting, the specific concerns regarding the student's Fitness to Study will be discussed. The focus of the meeting should be on the best interests of the student, how the concerns can be alleviated and the options available. If the student wishes to continue their studies in the short term, targets should be set and these may be more restrictive than those identified in Stage 1 above, including binding attendance requirements and evidence of substantial behaviour change. Further adjustments by UCQ may also be agreed.
- 6.6.5 Detailed records of the meeting should be kept as well as an agreed record of actions and targets.
- 6.6.6 A review date should be set (with a reasonable timeframe given the actions identified and in any case within 4 weeks) and agreed with the student.
- 6.6.7 At the review meeting progress against actions will be measured. Three options are available:
 - 6.6.7.1 No further action required. Targets have been met and staff have been satisfied that the student is fit to study.
 - 6.6.7.2 Resetting of targets. This may be appropriate where targets have been partially met or where further, relevant targets are helpful to maintain progress, and these have been identified in the course of the review meeting.
 - 6.6.7.3 Escalation. Where targets have not been met and the setting of further targets would appear unlikely to yield any progress the case should be escalated to Stage 3.

6.7 Stage 3: Formal Fitness to Study Procedure

- 6.7.1 Exceptionally, Stage 3 may be invoked without the full implementation of Stages 1 and 2, where in the opinion of the SLT, the student's behaviour constitutes a serious and immediate risk to their health and well-being or the health and well-being of others and action to suspend the student temporarily under the Student Disciplinary Policy and Procedures is not appropriate.
- 6.7.2 Stage 3 represents the final stage of the process. It is intended for use when the informal and initial formal steps outlined above have been exhausted without success.
- 6.7.3 Stage 3 consists of a panel assessment of the case. The panel should be composed of three or four members of the SLT.
- 6.7.4 The student will be invited to attend the meeting and may be accompanied if he/she so wishes. The student should normally be given 7 working days' notice of the meeting unless there is an urgent reason to call it in a shorter timescale. The accompanying person may present the student's case on his/her behalf.
- 6.7.5 The staff from UCQ and any relevant mentors or professional services staff will be invited to present documentation regarding the earlier stages of the procedures and their current concerns regarding the student's continued study at UCQ. This documentation should normally be submitted to the SLT at least 3 working days before the meeting.
- 6.7.6 The student will be invited to provide relevant independent medical or other professional practitioner evidence of his or her health and the potential impact of this on his/her ability to study and function as a member of the UCQ community. This should be provided to the SLT at least 3 working days in advance of the meeting. The student will normally be expected to bear the cost of this unless the report is requested by UCQ to aid its assessment of the case or there are compelling financial hardship grounds.
- 6.7.7 The panel should consider the evidence base and give the staff and student involved the opportunity to give their perspectives of events. The panel may ask questions of all parties to enable it to gain a fuller understanding of the situation and the possible options. The student and staff previously involved with the case will be asked to leave at the end of these discussions to allow the panel to consider its decision in private.
- 6.7.8 The student will be informed of the decision of the panel and the reasons for it in writing within 3 working days of the meeting. The potential range of outcomes are as follows (though this list is not exhaustive):
- 6.7.8.1 Recommend that the student be permitted to continue immediately with his/her studies in the current mode of study with no conditions attached.
- 6.7.8.2 Recommend that the student be permitted to continue immediately with his/her studies in the current mode of study with specified conditions, intended to safeguard the well-being of the student and/or the well-being of others, attached. If these conditions are not met the panel will be reconvened to reconsider the case.

6.7.8.3 Recommend that the student be permitted to continue immediately with his/her studies but be required under to adopt a less demanding mode of study (i.e. part-time/ stretched degree).

6.7.8.4 Recommend that the student be required to take a Break in Learning under the provisions of ESFA funding rules.

7. Appeals

7.1 Right of appeal

7.1.1 All students have the right to appeal a Fitness to Study decision at each stage of the process if there are extenuating circumstances or additional evidence or information that is relevant but not known by the member of staff at the time of the disciplinary action.

7.1.2 All non-academic appeals will follow the appeals process below and considered by the Academic Council. All academic and admission appeals will follow AC-001 Appeals Procedure.

7.1.3 An appeal should be submitted in writing to UCQ within ten working days from the day the decision was received by the student.

7.1.4 An appeal hearing will be arranged as soon as possible, but not later than ten working days from the receipt of the appeal. If the student fails to appear at the appeal hearing it will be presumed that the student has withdrawn their appeal unless a medical certificate has been submitted to UCQ within 2 days of the appeal hearing date.

7.2 Lodging an appeal

7.2.1 For an appeal to be formally considered by the Academic Council the appeal must be made, in writing, on the prescribed form (appendix A) and submitted to the appeals officer (appeals@ucq.ac.uk). The information provided must include:

- 7.2.1.1 the student's full name, student number and signature
- 7.2.1.2 the result or decision for which the appeal is made
- 7.2.1.3 the ground(s) of appeal
- 7.2.1.4 evidence in support of the appeal
- 7.2.1.5 list of any other person(s) who has (have) relevant information

7.3 Evidence

7.3.1 It is important that the student or applicant submits evidence to support their appeal. It is the appellant's responsibility to obtain the required evidence. UCQ will not contact doctors or others on the student's behalf. Evidence must be new and not already submitted and considered by the Disciplinary Officers. The evidence must be objective and authoritative and if not provided in English, a certified English translation must be provided at the time of submission.

7.4 Initial review

- 7.4.1 The Appeals Officer or nominee from the Academic Council will issue the appellant with a receipt (either electronic or printed) within 10 working days of the written application for appeal being submitted by the appellant. Should the appeal not meet the conditions of eligibility as set out below, the appellant will be notified in writing, along with their receipt.
- 7.4.2 To meet the threshold conditions for an eligible appeal, the appeal must:
- 7.4.2.1 have been made in writing on the appropriate form, and bear all of the information requested on the form
 - 7.4.2.2 identify the grounds of appeal
 - 7.4.2.3 have been received within the identified time limit
 - 7.4.2.4 have evidence and grounds which are reasonably arguable

7.5 Consideration of the appeal

- 7.5.1 Should the appeal meet the conditions of eligibility it will be submitted to the Academic Council for consideration. The Academic Council will appoint an investigating member, who has no conflict of interest with the appeal, who will review the evidence available, consider whether further information is required and generate a written report of the outcome.
- 7.5.2 The investigating member must reach a decision within four working weeks and inform the student orally and provide a copy of the written report with the identified outcome.

7.6 Outcome

- 7.6.1 The Academic Council member shall find either:
- 7.6.1.1 that the appeal be dismissed, and the consequent action be implemented/processed as normal; or
 - 7.6.1.2 uphold the appeal, in whole or in part, and stipulate specific actions to be taken

7.7 Action following appeal procedures

- 7.7.1 The appellant will be sent a written statement setting out the decision that has been made and the reasons for reaching that decision, together with any actions required by the appellant or UCQ to follow up and implement that decision. The written statement will also include details of any further right of appeal available to the student if they remain dissatisfied with the final outcome of the institution's procedures. This will include, where applicable, the right to appeal to The Open University.

7.8 Escalation to Awarding Organisation

- 7.8.1 If the appellant remains unhappy after following UCQ's own internal appeals procedure, they can contact the Awarding Organisation directly. Contact details of the Awarding Organisation can be found on their website. If you would like to confirm who the Awarding Organisation is, please contact the UCQ Student Services Team on 0191 275 5015 or review your Individual Learning Plan (ILP).

7.8.2 Should the appellant address their appeal to the relevant Awarding Organisation and remain unhappy with the outcome they may then raise their appeal to the relevant qualification regulator. Either a representative of UCQ or the Awarding Organisation will be able to offer you guidance on the appropriate qualification regulator in each instance and provide contact details.

7.9 Appeals to The Open University

7.9.1 For those studying on the Chartered Manager Degree Apprenticeship the Awarding Organisation is The Open University. There shall be a final right of appeal to The Open University against a decision of the UCQ Academic Council only if the appeal meets the following criteria:

- 7.9.1.1 the appeal relates only to a programme that has been validated by The Open University;
- 7.9.1.2 all appropriate internal procedures at UCQ have been exhausted;
- 7.9.1.3 there are reasonable grounds to believe that the UCQ's internal procedures and regulations for dealing with appeals were not implemented correctly or fairly.

7.10 Office of the Independent Adjudicator for Higher Education (OIA)

7.10.1 UCQ subscribes to the independent scheme for the review of student complaints. Once you have exhausted UCQ's internal procedures, if you are dissatisfied with the outcome you may be able to apply for a review of your appeal to the Office of the Independent Adjudicator for Higher Education (OIA) (<https://www.oiahe.org.uk>) providing that the complaint that you take to the OIA is eligible under its Rules.

Appendix A - UCQ Appeals Form

Applicant Appeal

Name of applicant: _____

Student No. (if applicable): _____

Applicant signature: _____

Relevant course/programme: _____

Date of decision: _____

Section 1: Result or decision for which the appeal is being made

Section 2: The ground(s) for appeal

Section 3: Evidence in support of the appeal

Section 4: Information of any other person(s) who has/have relevant information
