

## ACADEMIC REGULATION A3: STUDENT CONDUCT AND APPEALS

### INTRODUCTION

*The purpose of Regulation A3 and its constituent sections is to define and clarify the responsibilities and entitlements of students that follow from the act of enrolment, to specify the standards of conduct which are expected, and to stipulate students' entitlement to expect the University will meet its own clearly stated objectives, standards and performance targets within a supportive environment.*

*Section 1: Academic Appeals (Awards and Progression) Procedure specifies the procedures available to students to appeal against decisions of the University regarding taught awards and progression in taught courses. (The Procedure for consideration of appeals relating to research degrees is contained in Regulation A6: Research Degrees, paragraph 10, Research Degrees Appeal Procedure).*

*Section 2: Student Conduct Procedure specifies the procedure which is followed when misconduct is alleged for students on taught courses or research degrees.*

*Section 3: Student Fitness to Practise Procedure specifies the procedure which is followed when concerns are raised regarding a student's fitness to meet the professional, statutory and/or regulatory body requirements of a particular course. The University has a responsibility to ensure that all students undertaking a course of study leading to registration as a health or social care professional with a professional or regulatory body have the skills, knowledge, health and character to work effectively and safely.*

*Section 4: Student Fitness to Study Procedure specifies the procedure which is followed when concerns are raised regarding an enrolled student's fitness to study. Where these concerns relate to a student enrolled on a course leading to registration as a health or social care professional with a professional, statutory or regulatory body then Regulation A3 - Section 3: Fitness to Practise Procedure should normally be followed.*

## SECTION 3: STUDENT STUDY PROCEDURE

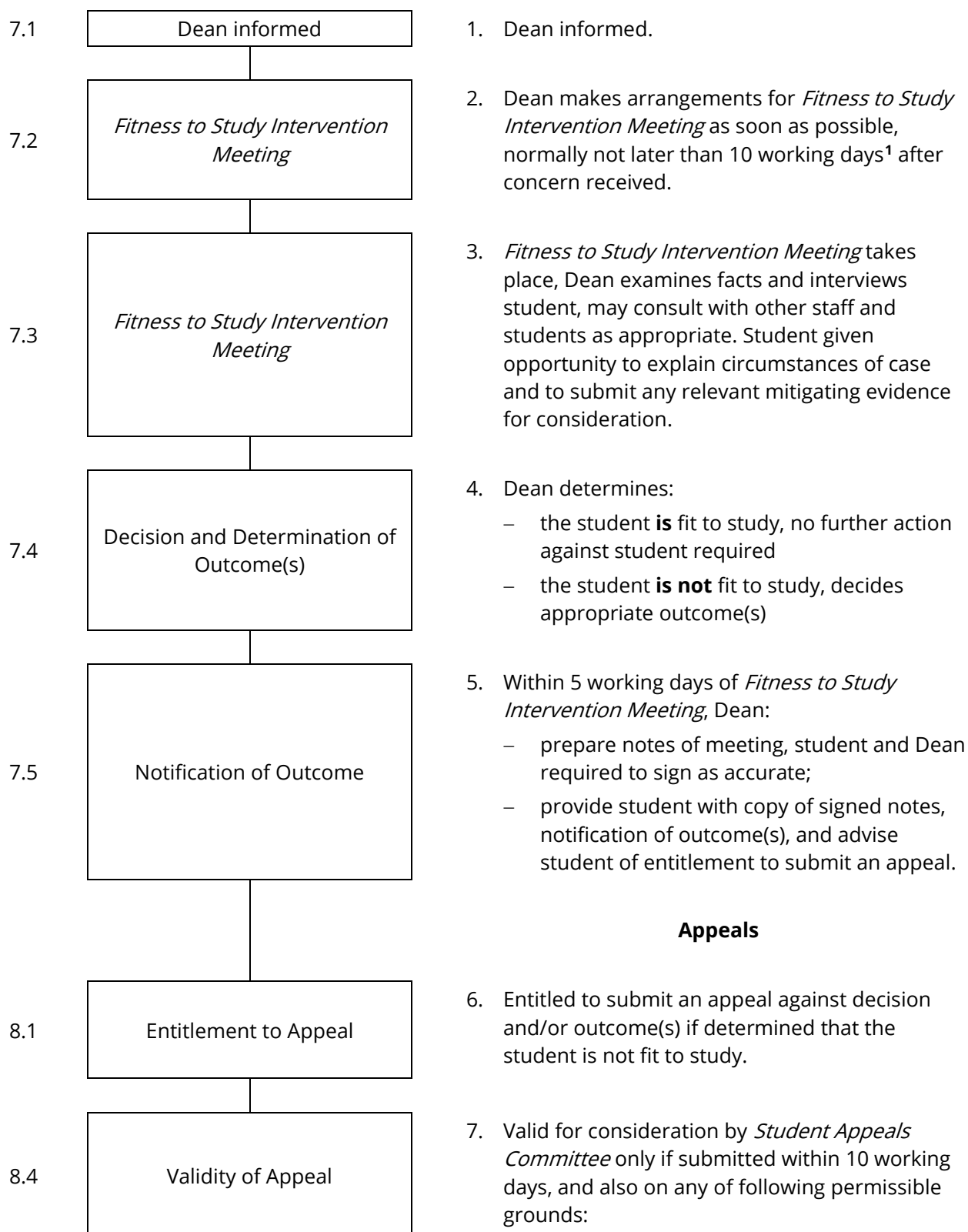
### CONTENTS

<b>Flow Diagram: Student Fitness to Study Procedure</b>	<b>3</b>
<b>Schematic Diagram: Student Fitness To Study Procedure</b>	<b>6</b>
<b>1. Applicability of Regulation</b>	<b>7</b>
<b>2. Statement of Principles</b>	<b>7</b>
<b>3. University Obligations</b>	<b>8</b>
3.1 Obligations to Applicants	8
3.2 Obligations to Students	8

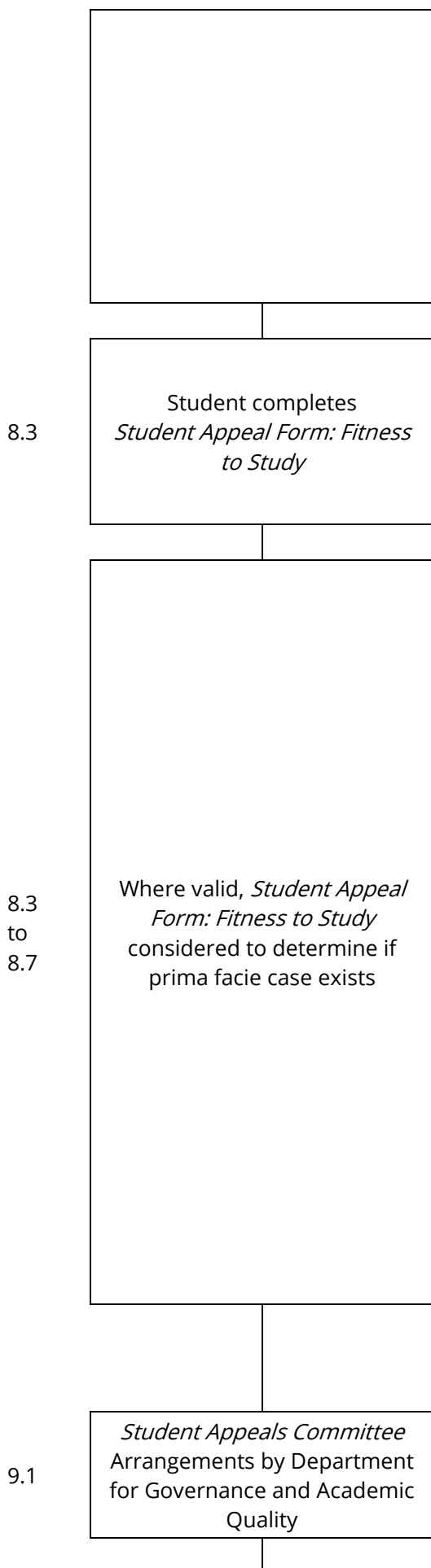
<b>4.</b>	<b>Student Obligations and Conduct</b>	<b>9</b>
4.1	Student Obligations	9
4.2	Student Conduct	10
4.3	Misconduct	11
<b>5.</b>	<b>Enrolment, Suspension and Termination</b>	<b>11</b>
5.1	Enrolment Status Pending an Appeal	11
5.2	Suspension of a student and/or process pending an Investigation	11
<b>6.</b>	<b>Fitness to Study</b>	<b>12</b>
<b>7.</b>	<b>Fitness to Study Intervention Meeting</b>	<b>13</b>
7.1	Initial Intimation	13
7.2	Fitness to Study Intervention Meeting Arrangements	13
7.3.	Fitness to Study Intervention Meeting Protocol	14
7.4.	Decision and Outcomes	14
7.5.	Notification of Decision and Outcome	15
<b>8.</b>	<b>Fitness to Study: Appeals</b>	<b>15</b>
8.1	Submission of Appeal	15
8.2	Grounds for Appeal	15
8.3	Submission of Appeal	16
8.4	Determination of whether Prima Facie Case exists	16
8.5	Prima Facie Case: Re-Consideration by the Dean	18
8.6	Prima Facie Case: Referral to the Student Appeals Committee	18
8.7	No Prima Facie Case: Dismissal of the Appeal	18
<b>9.</b>	<b>Fitness to Study Procedure: Student Appeals Committee</b>	<b>19</b>
9.1	Student Appeals Committee Arrangements	19
9.2	Student Appeals Committee Protocol	19
9.3	Outcome of Appeal	20
9.4	Notification of Outcome	20
<b>10.</b>	<b>Outcomes</b>	<b>20</b>
10.1	Criteria	20
10.2	Outcomes	21
<b>11.</b>	<b>Distribution and Retention of Fitness to Study Records</b>	<b>22</b>
11.1	Fitness to Study Intervention Meeting – Distribution of Outcome	22
11.2	Student Appeals Committee – Distribution of Outcome	22
11.3	Retention of Records	23
11.4	Reporting to Academic Council	23
<b>12.</b>	<b>Scottish Public Services Ombudsman</b>	<b>23</b>

**FLOW DIAGRAM: STUDENT FITNESS TO STUDY PROCEDURE**

This diagram is for guidance only. For the specific content of the *Procedure*, reference should be made to the appropriate paragraph of the Regulation as indicated.



<sup>1</sup> And henceforth, “working days” are Monday to Friday and excludes days that the University is closed.



- significant procedural irregularity or material administrative error resulting in an unfair or unreasonable decision; or
- evidence deemed insufficient to substantiate allegation; or
- evidence demonstrates that an outcome is disproportionate; or
- criteria used to determine proportionate outcome not appropriately applied.

8. Student completes *Student Appeal Form: Fitness to Study* submits to Dean normally within 10 working days of receiving outcome. Normally within 3 working days of receipt of the form, Dean copies to Deputy Academic Registrar and Academic Quality Officer.

9. Where appeal is valid for consideration, the Academic Quality Officer liaises with Deputy Academic Registrar to determine if prima facie case exists, normally within 5 working days of them receiving the appeal:

- (i) Prima facie case: if case under paragraph 8.4.3(i)(a), Deputy Academic Registrar and Academic Quality Officer have discretion to refer case back to Dean for re-consideration. Academic Quality Officer advises student in writing normally within 10 working days of them receiving the appeal.
- (ii) Prima facie case: if valid under any other permissible grounds, *Student Appeal Form: Fitness to Study* submitted to *Student Appeals Committee*. Academic Quality Officer advises student in writing normally within 15 working days of them receiving the appeal.
- (iii) No prima facie case: Case dismissed. Academic Quality Officer advises student in writing normally within 15 working days of them receiving appeal.

### Student Appeals Committee

10. Governance and Academic Quality advises of *Student Appeals Committee* arranges meeting at earliest opportunity, normally at least 10 working days prior to meeting.

9.2

*Student Appeals Committee*  
Meeting

11. *Student Appeals Committee* meeting takes place, Committee examines facts and interviews student, and other staff and students as appropriate. Student given opportunity to explain circumstances of case and to submit any relevant mitigating evidence for consideration.

9.3

Outcome of Appeal

12. (a) Appeal against decision, Committee shall determine either:
- appeal dismissed, student is unfit for study, decision confirmed, and outcome(s) confirmed or modified; or
  - appeal be upheld, student is fit to study, decision annulled and outcome cancelled.
- (b) Appeal against outcome(s) Committee shall determine either:
- appeal dismissed, outcome(s) confirmed; or
  - appeal upheld, lesser outcome(s) substituted.

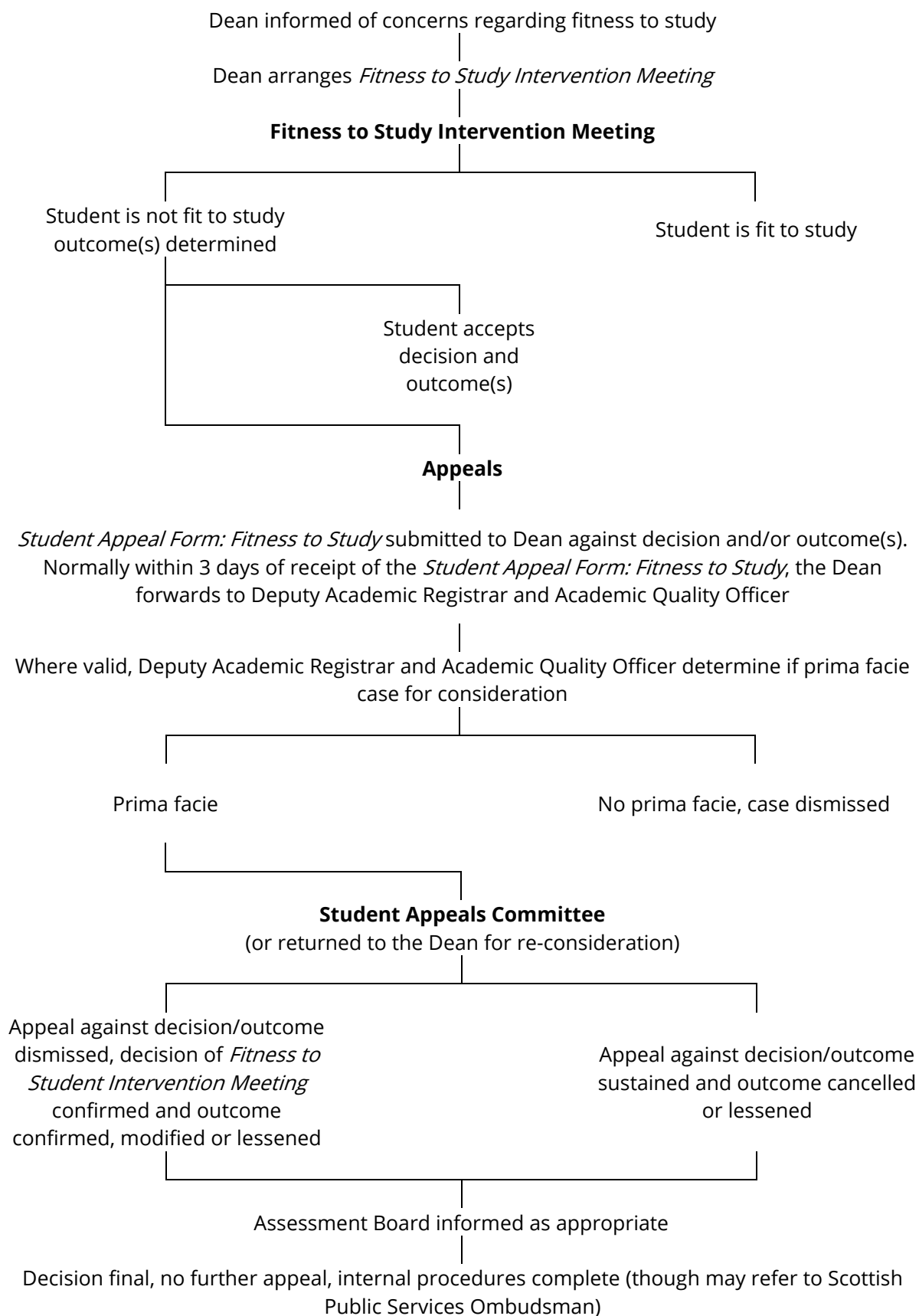
9.4

Notification of Outcome

12. Within 5 working days of *Student Appeals Committee* meeting, Convener:
- (i) issues written notification of outcome to student, decision of *Student Appeals Committee* final, student may refer to *Scottish Public Services Ombudsman*;
  - (ii) forward outcome to Dean/Assessment Board Convener for submission to Assessment Board (where appropriate).

**SCHEMATIC DIAGRAM: STUDENT FITNESS TO STUDY PROCEDURE**

This diagram is for guidance only. Please refer to the Regulation for details.



## REGULATION

### 1. APPLICABILITY OF REGULATION

- (i) The *Fitness to Study Procedure* shall apply to all enrolled students of the University.
- (ii) The *Fitness to Study Procedure* provides a fair and effective process for considering cases where there are *concerns are raised regarding an enrolled student's fitness to study*.
- (iii) For the purposes of this *Procedure*, residents of the University's student accommodation are deemed to be enrolled students of the University.

### 2. STATEMENT OF PRINCIPLES

This Regulation and its constituent sections have been prepared:

- (i) to ensure the authority and responsibilities of Academic Council are effectively discharged through those designated office holders referred to in this Regulation, and that these designated office holders, or their nominees who deputise on their behalf, act with the delegated authority of Academic Council;
- (ii) to reflect the principles of natural justice, including the assumption of innocence until guilt is determined, in the context of any matter which affects a student's educational progress and well-being;
- (iii) to ensure equality of treatment of students by providing transparent, consistent and accessible procedures;
- (iv) to ensure that appeals and disciplinary actions are resolved as close as possible to their point of origin, with a minimum of formality, and as expeditiously as possible; and to ensure that, as far as is reasonably practicable, all interested parties are kept informed of progress of an investigation or appeal;
- (v) to assure the identity and circumstances of all parties involved in investigations or appeals remain confidential unless disclosure is necessary to progress an investigation or appeal, in which case an identity will only be revealed judiciously to those directly involved in an investigation or appeal or with the prior approval of the subject;
- (vi) to ensure any student will not be disadvantaged because they contribute to an investigation, lodges an appeal or raises a complaint;
- (vii) to ensure that information revealed in the process of investigations or appeals will, where appropriate, inform a deliberate and expeditious improvement in a service which is within the control of the University;

- (viii) to ensure that the Regulation will not hinder a person's rights under the Laws of Scotland, the legal context in which these Regulations operate for all students enrolled with the University;
- (ix) on the basis that the standard of proof to be used when allegations of misconduct are investigated shall be the balance of probabilities.

### **3. UNIVERSITY OBLIGATIONS**

#### **3.1 Obligations to Applicants**

The University's obligations to its applicants are:

- (i) to provide information to potential applicants that will describe the applications procedure and assist them to make an informed choice of course and, where appropriate, an application for accommodation;
- (ii) to specify the qualification awarded on the successful completion of the course and whether it is recognised as part of, or leads to, a professional qualification;
- (iii) to provide a statement of the fees payable together with an indication of any additional equipment or material costs for which the student may be liable;
- (iv) to ensure the process of selection is conducted fairly and the selection criteria take account of a broad and reasonable range of qualifications;
- (v) to take all reasonable steps to provide the educational services described in the prospectus and other promotional material.

#### **3.2 Obligations to Students**

The University's obligations to its students are:

- (i) to provide information on the aims, structure and content of the course, and an outline of the teaching and learning methods employed, with particular reference to the mix of practical, lecture and tutorial sessions together with details of sandwich and/or work placement elements where these apply;
- (ii) to provide a timetable of classes with any attendance requirements clearly specified;
- (iii) to provide clear and timely information on methods of assessment, and the scheduling of all assessments;



- (iv) to provide students with the appropriate opportunity to express their views on the quality of teaching, academic facilities, and other support services through the University's quality control procedures;
- (v) to provide accommodation in accordance with the *Conditions of Lease*;
- (vi) to attend fairly and promptly to enquiries and queries from students relating either to their course or to the range of student services offered by the University;
- (vii) to deal fairly and promptly with appeals against decisions concerning academic awards and progression in accordance with the *Academic Appeals – Awards and Progression Procedure* set out in [Section 1](#) of this Regulation;
- (viii) to deal fairly and promptly with all allegations of misconduct in accordance with the *Student Conduct Procedure* set out in [Section 2](#) of this Regulation;
- (ix) to deal fairly and promptly with all fitness to study concerns in accordance with the *Fitness to Study Procedure* set out in [Section 3](#) of this Regulation;
- (x) to assure the identity and circumstances of all complainants and appellants remains confidential, unless disclosure is necessary to progress an investigation or appeal, in which case the identity of the complainant or appellant will only be revealed judiciously to those directly involved in an investigation or appeal or with the prior approval of the complainant;
- (xi) to ensure that information revealed in the process of investigations or appeals will, where appropriate, lead to timeous corrective action or inform a deliberate improvement in a service which is within the control of the University;
- (xii) to take all reasonable steps to minimise any disruption to educational provision, caused by circumstances beyond the control of the University such as natural disaster or industrial action.

## **4. STUDENT OBLIGATIONS AND CONDUCT**

### **4.1 Student Obligations**

It is the obligation of each student (for research students see also *Regulation A6: Research Degrees*):

- (i) to meet any attendance requirements set by the School or laid out in the Course Specification and to acknowledge that failure to do so may be taken into account by the relevant Assessment Board;

- (ii) to attend timetabled assessments, and to submit work for assessment within the notified time limit and in accordance with the conditions for the course to which the submission relates, or to notify the tutor or Dean timeously of any special circumstances which may prevent them achieving this;
- (iii) to notify the tutor or Dean timeously of any special circumstances which may adversely affect their academic performance;
- (iv) to declare, where deemed necessary by an associated professional, statutory and/or regulatory body, any personal circumstances pertinent to achieving and/or retaining the membership of that body, including fitness to practise;
- (v) who is a resident of University accommodation, to comply with and be bound by the *Conditions of Lease* throughout their tenancy;
- (vi) to pay by the due dates all University or partner institution fees, loans, fines, rent and such other sums and return any property as may be due to the University or partner institution, and to acknowledge that, in the event of failure to do so, the University or partner institution is entitled to take appropriate action, which may include, but need not be limited to, one or more of the following:
  - (a) suspension or discontinuation of enrolment;
  - (b) withholding a University or partner institution award, only where this relates to tuition fees;
  - (c) referral to a debt collection agency;
  - (d) where relevant, eviction from the University's student accommodation;
- (vii) to fulfil the University's published requirements for enrolment for assessment.

## 4.2 Student Conduct

All students of the University are subject to the jurisdiction of the Principal in respect of their conduct:

- (i) Students are expected to behave courteously, and not to engage in behaviour which is, or is likely to be, prejudicial to the good order or to the reputation of the University.
- (ii) Students are required to treat University property and equipment with respect.
- (iii) Students are required to abide by all requirements for professional conduct and behaviour be they defined by the University or an associated professional, statutory and/or regulatory body and be aware that failure to do so may result in the submission of a report to the relevant professional, statutory and/or regulatory body.

- (iv) Students are expected not to attempt to gain unfair advantage in assessments and examinations.
- (v) Students must adhere to the requirements of any applicable legislation.
- (vi) Students, who are residents of University's student accommodation, must adhere to the provisions of the *Conditions of Lease*.
- (vii) Breaches of the above will be deemed to constitute misconduct, and will be dealt with as specified in [paragraph 4.3](#).

### 4.3 Misconduct

Where misconduct is alleged in respect of paragraph 4.2 of this Regulation, students shall be liable to disciplinary procedures provided for in the *Student Conduct Procedure*, as contained in *Regulation A3 – Section 2: Student Conduct Procedure*.

## 5. ENROLMENT, SUSPENSION AND TERMINATION

### 5.1 Enrolment Status Pending an Appeal

- 5.1.1 Where a student has had their studies discontinued or progression curtailed and an appeal is pending, the student's enrolment and progression shall be continued and, assuming all pre-requisites for the modules concerned have been met, the student shall be permitted to attend classes and to undertake assessments pending the resolution of the appeal. Any such enrolment shall in no way imply that the student's appeal will be successful or that the student's desired outcome shall be approved.
- 5.1.2 No student will be evicted from the University's student accommodation whilst an appeal is pending.

### 5.2 Suspension of a student and/or process pending an Investigation

- 5.2.1 *Suspension:* A student who is the subject of concern relating to fitness to study and/or against whom a criminal charge is pending and/or who is the subject of police investigation and/or other external investigation, may be suspended by the Principal, or nominee, pending the outcome of a *Fitness to Study Intervention Meeting* or *Student Appeals Committee*, or the trial, or the outcome of the police/external investigation, as appropriate. Suspension may involve:
  - a total prohibition on attendance at, or access to, the University and/or its resources and facilities, and on any participation in University or Student Union activities; or

- a selective restriction on attendance at, or access to, the University and/or its resources and facilities, and on any participation in University or Student Union activities; it may also be subject to qualification, such as permission to attend for the purpose of an examination.

In taking such a decision to suspend a student's studies, the Principal or nominee shall be mindful of the requirement to report a change in a student's enrolment status to the UK Visas and Immigration service where the student is subject to UK immigration legislation.

Where *Fitness to Study* proceedings have already been initiated but the fitness to study concern is subsequently found to be the subject of a criminal charge, police investigation and/or other external investigation then the *Fitness to Study* proceedings may be suspended by the Dean pending the outcome of the trial or police/external investigation.

- 5.2.2 *Enrolment status and suspension:* Further to the provisions of paragraph 5.2.1 of this Regulation, a student who has been suspended pending the outcome of a *Fitness to Study Intervention Meeting* or *Student Appeals Committee* may have their enrolment continued at the discretion of the Principal or nominee.
- 5.2.3 *Emergency suspension:* In cases of great urgency, the Principal or nominee shall be empowered to suspend a student with immediate effect.
- 5.2.4 *Entitlement to make representation:* A student shall be entitled to make representations in person to the Principal or the nominee. Where it is not possible for the student to attend in person, they shall be entitled to make written representations.
- 5.2.5 *Review of suspension decision:* Where a student has been suspended, such suspension should be subject to review by the Principal or nominee in the light of any developments and of any representations made by the student or anyone else on their behalf.

## 6. FITNESS TO STUDY

- 6.1 Fitness to study is defined by the University as a student's fitness to undertake their course of study and/or function in the University environment.
- 6.2 The expectation is that all students are fit to study. However, the University recognises that there can be circumstances which impact on a student's health and wellbeing and ability to engage with their studies and University life. In the majority of cases, students will actively engage with the University's *Fit to Sit Policy: Extenuating Circumstances* and associated processes in support of such circumstances but in some instances the severity of a student's circumstances might impact on their engagement with these processes and result in concerns regarding the student's fitness to study.
- 6.3 Concerns regarding a student's fitness to study may be initiated where there are concerns that [though not limited to]:
- a student poses a risk to their own health, safety and/or wellbeing and/or that of others;

- a student's behaviour is (or is at risk of) adversely affecting the teaching, learning and/or experience of other students;
- a student's behaviour is (or is at risk of) adversely affecting the day-to-day activities of the University or a placement provider;
- a student's support needs fall outside the scope of the support and other services which the University can reasonably be expected to provide.

## 7. FITNESS TO STUDY INTERVENTION MEETING

### 7.1 Initial Intimation

- 7.1.1 Where there are valid concerns regarding a student's Fitness to Study then these shall normally be raised in the first instance with the Course Leader who will notify the Dean. The mechanism for raising these concerns with the Dean shall be through a *Fitness to Study Concern Report*, normally completed by the Course Leader. Liaison with relevant central support services may be required to inform completion of the *Report*, including the provision of any accompanying evidence where appropriate and in accordance with Data Protection legislation.
- 7.1.2 Where the Dean is satisfied that the concerns relating to the student's fitness to study are valid then a *Fitness to Study Intervention Meeting* will be organised. The Course Leader will normally be assigned as the School support for the student and, in addition, *Student Life* will be asked to assign a nominated member of staff in support of the student.
- 7.1.3 Where the Dean determines that the concerns and particular circumstances are critical then, in support of the student's safety and wellbeing, the student's nominated emergency contact person shall be informed of the concerns. Normally, the student's permission shall be required but where the student's decision making capacity is impaired then this requirement shall be waived.
- 7.1.4 In cases of extreme emergency, and in accordance with the provision of [paragraph 5.2](#) the Dean may determine that a student be suspended pending the outcome of the *Fitness to Study Intervention Meeting*.

### 7.2 Fitness to Study Intervention Meeting Arrangements

- 7.2.1 The Dean shall:
- (i) arrange a *Fitness to Study Intervention Meeting* with the student at the earliest possible opportunity and normally not later than 10 working days after the *Fitness to Study Concern Report* has been received by the Dean;
  - (ii) be accompanied to the *Meeting* by a note-taker and those appropriate to the circumstances of the fitness to study concerns. Normally the *Fitness to Study Intervention Meeting* shall include:
    - the Dean (as Convener);

- the Course Leader and/or the staff member who has raised the concern;
  - a member of staff from Student Life, where appropriate.
- (iii) issue such notification of the date, time and venue of the *Fitness to Study Intervention Meeting* and details of the concerns to the student by email, normally at least 24 hours<sup>2</sup> in advance of the *Meeting*, and advising of their entitlement to be accompanied by two persons.
- (iv) advise that in the event the student's health and wellbeing circumstances mean they are unable to attend the *Meeting* then they may submit a written statement or nominate an individual to attend on their behalf.
- (v) Advise that if they are unable to attend, without good reason, the *Fitness to Study Intervention Meeting* may proceed in their absence, without this constituting grounds for appeal.

### 7.3. Fitness to Study Intervention Meeting Protocol

- (i) If the student fails to attend, but has provided good reason for non-attendance, then a further *Fitness to Study Intervention Meeting* shall be arranged, the arrangements for which shall also be confirmed in writing to all interested parties, and the student informed the *Fitness to Study Intervention Meeting* will proceed in their absence if necessary, without this constituting grounds for appeal.
- (i) If the student fails to attend without providing a good reason for non-attendance, then the *Fitness to Study Intervention Meeting* will proceed in their absence, without this constituting grounds for appeal.
- (ii) The Dean supported by, as appropriate, those staff accompanying them in the *Fitness to Study Intervention Meeting*, shall examine the facts and interview the student, and may consult with other staff and students as appropriate. The student shall be given every opportunity to explain the circumstances of the case and to submit any relevant mitigating evidence for consideration.

### 7.4. Decision and Outcomes

If, as a result of the *Fitness to Study Intervention Meeting*, the Dean is satisfied that:

- (i) the student **is** fit to study, no further action will be taken and the student shall be informed of the outcome in writing by the Dean within five working days of the *Fitness to Study Intervention Meeting*,

---

<sup>2</sup> This timescale is provided as a guide to facilitate urgent intervention as appropriate.

- (ii) the student **is not** fit to study, the Dean shall decide the appropriate and proportionate outcomes(s) in accordance with [paragraph 10](#) of this *Procedure*, including relevant support as appropriate;

In relation to both (i) and (ii), following the *Fitness to Study Intervention Meeting*, and prior to reaching an outcome, the Dean may request additional evidence from a third party to determine the student's fitness to study. This may include referral to a professional service such as an Occupational Health service.

## 7.5. Notification of Decision and Outcome

Normally within five working days of the *Fitness to Study Intervention Meeting*, the Dean shall:

- (i) prepare notes of the meeting, which the student and Dean shall be required to sign as representing an accurate record of the meeting. Thereafter, the notes shall constitute the formal record of the meeting.
- (ii) provide the student, by email, with a copy of the signed notes of the meeting, notification of the outcome(s) and, if appropriate, replacement costs, and advise the student of their entitlement to submit an appeal against the decision and/or outcome(s) in accordance with [paragraph 8](#) of this *Procedure* by completing the [Student Appeal Form: Fitness to Study](#). In the event the student fails to respond on the accuracy of the notes of the meeting within a specified timescale, as agreed and recorded in the notes of the meeting, then it shall be assumed that the notes are a true and accurate record. Where there is disagreement between the student and the Dean regarding the accuracy of the notes of the meeting then the record of such disagreement shall be appended to the notes of the meeting.

## 8. FITNESS TO STUDY: APPEALS

### 8.1 Submission of Appeal

- 8.1.1 A student shall be entitled to submit an appeal against the decision and/or the outcome(s) if a Dean has determined the student is not fit to study.

### 8.2 Grounds for Appeal

- 8.2.1 Appeals shall be considered only on the following grounds for appeal:

- (i) there has been a significant procedural irregularity or material administrative error resulting in an unfair or unreasonable decision; or
- (ii) the evidence in support of the unfit to study decision is deemed insufficient to substantiate the concern; or

- (iii) there is substantial evidence that:
  - (a) was not previously known to the Dean at the time of the *Fitness to Study Intervention Meeting*; or
  - (b) demonstrates an outcome is disproportionate; or
  - (c) the criteria used to determine a proportionate outcome, as contained in [paragraph 10](#), were not appropriately applied.

8.2.2 If a student makes any alteration to the grounds of their appeal at any time after its initial lodgement with the School, then the appeal shall be deemed invalid.

### 8.3 Submission of Appeal

8.3.1 The student shall complete the [Student Appeal Form: Fitness to Study](#), specifying the grounds for appeal which form the basis for the appeal. The appeal shall be competent only where it accords with the provisions of [paragraph 8.2.1 of this Procedure](#).

8.3.2 The student shall submit the [Student Appeal Form: Fitness to Study](#) to their Dean within 10 working days of the student receiving notification of the outcome.

#### Validity of an Appeal for Consideration

8.3.3 An appeal shall be deemed valid for consideration only if it is received within 10 working days of the student receiving notification of the outcome from the Dean.

8.3.4 An appeal shall be deemed invalid for consideration if it is not received within 10 working days of the student receiving notification of the outcome from the Dean and will be dismissed. The student shall have no further right of appeal. The Dean shall notify the student accordingly.

8.3.5 Normally within 3 working days of receipt of the [Student Appeal Form: Fitness to Study](#), the Dean shall copy the [Student Appeal Form: Fitness to Study](#), together with a report of the circumstances surrounding the appeal, to the Deputy Academic Registrar and the Academic Quality Officer.

### 8.4 Determination of whether Prima Facie Case exists

8.4.1 Where an appeal is deemed valid for consideration then the Deputy Academic Registrar and the Academic Quality Officer shall confer, normally within 5 working days of them receiving the appeal, to establish whether a prima facie case for an appeal exists.



### Prima Facie Case for Appeal

8.4.2 A prima facie case for an appeal shall be deemed to exist only where there is relevant evidence provided by the student which:

- (i) relates to the specified grounds for appeal as described in [paragraph 8.2.1](#); and
- (ii) demonstrates:
  - (a) there has been a significant procedural irregularity or material administrative error resulting in an unfair or unreasonable decision; or
  - (b) the evidence of the student being unfit to study is deemed insufficient to substantiate the concern; or
  - (c) an outcome is disproportionate; or
  - (d) the criteria used to determine a proportionate outcome, as contained in [paragraph 10](#), were not appropriately applied.

### Decisions

8.4.3 In determining whether a prima facie case exists, the Deputy Academic Registrar and Academic Quality Officer, shall have the following decisions shall be available to them:

- (i) **Prima facie case:** where it is deemed a prima facie case exists the case may be:
  - (a) referred directly back to the Dean for re-consideration, once only, in accordance with the provisions of [paragraph 8.4.2](#) of this Procedure when:
    - substantial relevant evidence is submitted that was not previously known to the Dean at the time of the *Fitness to Study Intervention Meeting*; and/or
    - it is deemed that there is insufficient evidence of appropriate consideration of a case by the Dean at the *Fitness to Study Intervention Meeting*; and/or
    - it is deemed that the decision arising from the *Fitness to Study Intervention Meeting* was unreasonable on the basis of the information available to it when reaching its decision.
  - (b) submitted for consideration to the *Student Appeals Committee* in accordance with the provisions of [paragraph 8.6](#) of this Procedure.
- (ii) **No prima facie case:** where it is deemed by the Deputy Academic Registrar, acting with the delegated authority on behalf of the Principal, that no prima facie case exists, the case be dismissed in accordance with the provisions of [paragraph 8.7](#) of this Procedure.

## 8.5 Prima Facie Case: Re-Consideration by the Dean

- 8.5.1 The Academic Quality Officer shall communicate this decision to the student, and the Dean, by email normally within 10 working days of them receiving the student's *Student Appeal Form: Fitness to Study*.
- 8.5.2 Normally within 10 working days of receiving the referral, the Dean shall liaise, as appropriate, with the staff involved in the original *Fitness to Study Intervention Meeting* to re-consider the case.
- 8.5.3 Following the Dean's re-consideration, the student shall be notified in writing of the decision by the Dean (and a copy of the outcome passed to the Dean if appropriate, and other central Professional Support Departments to which the case relates, as appropriate). Normally within 5 working days of being so notified the student shall either:
- (i) accept the decision of the Dean, and withdraw their appeal; or
  - (ii) confirm they wish to proceed with the appeal by submitting a further *Student Appeal Form: Fitness to Study*.

## 8.6 Prima Facie Case: Referral to the Student Appeals Committee

- 8.6.1 The *Student Appeals Committee* shall be convened in accordance with [paragraph 9](#) of this Procedure.
- 8.6.2 The Academic Quality Officer shall communicate the decision to the student in writing, together with details of the procedure to be adopted by the *Student Appeals Committee*, normally within 15 working days of the Deputy Academic Registrar and the Academic Quality Officer receiving the student's *Student Appeal Form: Fitness to Study*.

## 8.7 No Prima Facie Case: Dismissal of the Appeal

- 8.7.1 Where it is deemed by the Deputy Academic Registrar, acting with delegated authority on behalf of the Principal, that no prima facie case exists, the appeal shall be dismissed. There shall be no appeal against such a decision of the Deputy Academic Registrar.
- 8.7.2 The Academic Quality Officer shall communicate the decision to the student in writing within 15 working days of receiving the student's *Student Appeal Form: Fitness to Study*, and to the Dean concerned.

## 9. FITNESS TO STUDY PROCEDURE: STUDENT APPEALS COMMITTEE

### 9.1 Student Appeals Committee Arrangements

The Department for Governance and Academic Quality shall:

- (i) arrange a meeting of the *Student Appeals Committee* at the earliest opportunity, and in accordance with the requirements of [Organisational Regulation O4: Standing Committees of Academic Council, Schedule 4.6](#). In addition to the constitution detailed within [Organisational Regulation O4: Standing Committees of Academic Council, Schedule 4.6](#), the *Student Appeals Committee for Fitness to Study* cases will include a staff member from Student Life where appropriate.<sup>3</sup>
- (ii) confirm in writing to the student the date, time and venue for the *Student Appeals Committee*, normally at least 10 working days prior to the meeting, issuing the correspondence by email, and advising:
  - of their entitlement to be accompanied by two persons; and
  - that the Student Union may be contacted for advice and support; and
  - that if they are unable, for good reason, to attend the Committee then they may nominate someone to attend on their behalf.
- (iii) advise the student in writing that if they fail to attend, without good reason, the *Student Appeals Committee* meeting may proceed in their absence, without this constituting grounds for appeal.

### 9.2 Student Appeals Committee Protocol

- (i) No person involved in the *Fitness to Study Intervention Meeting* shall be a member of the *Student Appeals Committee* which hears the appeal.
- (ii) The *Student Appeals Committee* may hear more than one appeal at the same meeting, and does not require to be convened separately for each case.
- (iii) If the student fails to attend, but has provided good reason for non-attendance, then a further meeting of the *Student Appeals Committee* shall be arranged, the arrangements for which shall also be confirmed in writing to all interested parties, and the student informed the *Student Appeals Committee* meeting will proceed in their absence if necessary, without this constituting grounds for appeal.
- (iv) If the student fails to attend without providing a good reason for non-attendance, then the meeting will proceed in their absence, without this constituting grounds for appeal.

---

<sup>3</sup> Exceptionally the Vice-Principal for Academic Development and Student Experience, acting with delegated authority on behalf of the Principal, may approve a reduced membership.

- (v) The *Student Appeals Committee* shall examine the facts and shall interview the student and members of staff and students as appropriate. The student shall be given every opportunity to explain the circumstances of the case and to submit any relevant mitigating evidence for consideration.

### 9.3 Outcome of Appeal

- (i) Having considered an appeal against the decision, the Committee shall determine either that:
  - (a) the appeal be dismissed, the student is deemed unfit to study, the decision of the Dean be confirmed, and the outcome be confirmed or modified; or
  - (b) the appeal be upheld, the student is not deemed unfit to study, the decision of the Dean be annulled and the outcome be cancelled.
- (ii) Having considered an appeal against the outcome, the Committee shall determine either:
  - (a) the appeal be dismissed and the outcome be confirmed; or
  - (b) the appeal be upheld and a lesser outcome be substituted.

### 9.4 Notification of Outcome

Normally within 5 working days of the *Student Appeals Committee* meeting, the Convener shall:

- (i) issue a written notification of the outcome to the student, and advise the student the decision of the *Student Appeals Committee* is final in respect of the University's internal *Fitness to Study Procedure*, though the student may refer to the *Scottish Public Services Ombudsman's* independent public services complaints system, as contained in [paragraph 12](#) of this *Procedure*;
- (ii) shall forward the outcome to the Dean.

## 10. OUTCOMES

### 10.1 Criteria

When determining a proportionate outcome, the following criteria will be used as appropriate:

- (i) any previous fitness to study concerns;

- (ii) reports provided by the student from relevant third parties such as Occupational Health, Counselling and Student Support services;
- (iii) any other relevant factors, including issues raised by the student not covered by the above.

## 10.2 Outcomes

- 10.2.1 One or more of the following outcomes may be applied where a student has been deemed unfit to study. Failure to comply with an outcome may result in a further *Fitness to Study Intervention Meeting*. The list is not exhaustive.

**Action Plan:** Compliance with a School generated Action Plan, including engagement with any additional support and/or monitoring requirements.

**Study Plan:** Provision of a bespoke study plan, which may include restrictions to attending placement, for example. This may include regular monitoring of the student's ongoing fitness to study.

**Restricted Access to University Facilities:** This may include restriction to specific learning and/or recreational resources and Schools/Professional Support Departments.

**Mandatory Education/Rehabilitation/Training:** Participation at a relevant internal and/or external education/awareness/rehabilitation programme (e.g. mental health, drug, alcohol), or other constructive activity.

**Suspension for specified period:** A recommendation to the Principal (or a nominee to whom such authority has been delegated) for the immediate suspension of enrolment and all corresponding rights of the student, including the use of University facilities, for a specified period and normally not exceeding one year. This recommendation may include conditions for determining the student's fitness to study, and mechanisms for review of the student's fitness, during and/or at the end of the period of suspension.

**Termination of Enrolment:** A recommendation to the Principal (or a nominee to whom such authority has been delegated) for the student's immediate termination of enrolment (including all corresponding rights), discontinuation of studies and exclusion from the University's facilities and properties. The recommendation will generally relate to circumstances where the University is unable to meet the student's specific needs for studying at the University. Any such outcome shall normally include details of any future re-admission opportunities or alternative courses of study where appropriate. Where this outcome is imposed on a migrant student, the University shall report this decision to the UK Visas and Immigration service.

## 11. DISTRIBUTION AND RETENTION OF FITNESS TO STUDY RECORDS

### 11.1 Fitness to Study Intervention Meeting – Distribution of Outcome

- (i) All records, whether in paper or electronic form, documenting the conduct and outcome of fitness to study proceedings against a student considered through the *Fitness to Study Procedure* shall be retained in the School's student file.
- (ii) The Convener of the *Fitness to Student Intervention Meeting* shall ensure a copy of the notes are retained in the School's student file;
- (iii) The Convener of the *Fitness to Study Intervention Meeting* shall report the outcome of the investigation to:
  - the Academic Administration Department and the Student Services Department where an outcome involves a suspension or discontinuation of studies;
  - those other Professional Support Departments to which the case relates, which might include any or all of the following: Student Life, the Estates and Property Services Department, the Financial Services Department, the IT Services Department and the Library.
- (iv) All cases of *fitness to study* relating to taught courses shall be reported to the appropriate Assessment Board only where it impacts the decision of the Assessment Board.

### 11.2 Student Appeals Committee – Distribution of Outcome

- (i) All records, whether in paper or electronic form, documenting the conduct and outcome of disciplinary proceedings against a student considered through the *Fitness to Study Procedure* shall be retained in the School's student file.
- (ii) The Convener of the *Student Appeals Committee* shall distribute a copy of the Committee's report to:
  - the Dean in which the student is studying, for retention in the School's student file;
  - the Academic Registrar for retention in the Department for Governance and Academic Quality file.
- (iii) The Convener of the *Student Appeals Committee* shall report the outcome of the appeal to:

- the Academic Administration Department and the Student Services Department where an outcome involves a suspension or discontinuation of studies;
  - those other Professional Support Departments to which the case relates, which might include any or all of the following: Student Life, the Estates and Property Services Department, the Financial Services Department, the IT Services Department and the Library.
- (iv) All cases of *fitness to study* relating to taught courses shall be reported to the appropriate Assessment Board only where it impacts the decision of the Assessment Board.

### 11.3 Retention of Records

All records, whether in paper or electronic form, documenting the conduct and outcome of fitness to study proceedings against a student shall be retained for six years from the date the case concluded. Thereafter, all records shall be destroyed unless:

- it is a requirement of a relevant professional, statutory or regulatory body to retain such records for a longer specified period; such records shall be retained by the School; or
- where a student has been deemed unfit to study and this has led to an outcome of suspension, termination of enrolment, or the denial of any future rights of application and enrolment to the University, either permanently or for a specified period; such records shall be retained by the Academic Administration Department.

### 11.4 Reporting to Academic Council

The Deputy Academic Registrar shall maintain a central record of all fitness to study cases and outcome(s) and report these annually to Academic Council.

## 12. SCOTTISH PUBLIC SERVICES OMBUDSMAN

- 12.1 All students of Robert Gordon University are entitled to pursue a complaint through the Ombudsman where the complainant has exhausted the University's internal complaints procedure. Further details of the Scottish Public Services Ombudsman can be obtained at: [www.spsso.org.uk](http://www.spsso.org.uk).