



## Review Article

# Avoidable Pitfalls and Procedural Errors when Dealing with Pre-registration Health and Social Care Students whose Behavior has Called into Question their Suitability for a Professional Career

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## Abstract

A small proportion of health and social care pre-registration students display adverse patterns of behavior that are resistant to support, guidance, warnings and other interventions, suggesting that they might be unsuitable to enter the professional career they have chosen. In a few such cases, in order to protect patients, clients or service users, it is necessary to terminate the student's studies, a drastic step to take, and one that is usually regarded as a last resort. In former days such cases tended to be managed in an arbitrary and summary manner. However it is now accepted that decisions about suitability for a chosen profession, or "fitness to practise" as it is referred to in the UK, may affect the rights of a student, and should involve a process that allows for decisions to be made by a panel of independent decision makers, using a method that allows the student to receive and respond to any allegations that have been made. Whilst these processes tend to be specific to professions and to institutions, each with their own regulations and procedures, this article sets out the basic principles that must be followed to ensure that the process is fair, and, if necessary, capable of surviving legal challenge. The complexity of such cases is increased by the fact that up to 50% involve the student's mental health, and there need to be systems to assess and provide support for students who may be disabled by long-standing mental health problems. Institutions that provide health and social care education have to be able to deal with such cases, and to do so in a way that is fair to the student but also takes into account the needs of present and future patients, clients and service users.

**Keywords:** Fitness to practise, Professional suitability, Gatekeeping, Expulsion, Procedural fairness, Natural justice

## Introduction

Despite best efforts to ensure that only suitable students are accepted on to a program to train for a health or social care career, it is an unfortunate fact that those who provide education programs for such careers occasionally encounter students whose adverse behavior while on the education program suggests that the individual is fundamentally unsuitable for their chosen future career [1-10]. A basic and universally accepted principle is that in the first instance problems with student behavior should be managed with guidance and support [11], and most students will respond to guidance and support that has been tailored to meet their individual needs. However there is likely to be a small subset of individuals who are unable or unwilling to respond to supportive measures, and whose suitability for a career as (say) a doctor, a dentist, a nurse, a pharmacist or a social worker is called in to question.

In the UK, the major health and social care professions are all subject to regulation by a national regulator. Whilst these regulators may operate in different ways, they all set standards of professional conduct, and they all maintain a register which contains the names of professionals who permitted to practice the relevant profession. Newly qualified students are unable to practise their chosen profession unless their name is entered into the relevant register. Some of these students have not previously graduated from university, and are therefore classed as "undergraduates" whereas some students (for example a social work student who already has a

degree in social science) are classed as "postgraduates". Entry to UK professional registers mostly requires approval of the education institution that the individual has satisfactorily completed their training and is of a suitable character. The exceptions are optometry and dispensing opticians, where professional registration is mandatory for all students. The professional regulators make their own decisions based on registration criteria; some will accept the education institution's sign off as absolute, while others will make a fresh assessment. Most notably, the General Medical Council (GMC) has on a number of occasions refused to grant provisional registration to recently graduated students, halting the doctor's professional career either temporarily or permanently [12-13].

In the UK, the health and social care regulators, led by the GMC which regulates doctors, have provided guidance (to both students and universities) on how to support and manage students who exhibit severe behavior problems [11,14-20]. Valuable though all this guidance is, the authors of this review recognise the fact that the arrangements for professional regulation, and for dealing with severe student behavior problems, varies around the world [21]. The aim of this review is to set aside the specifics of the arrangements in the UK, and to concentrate on the basic principles that education providers should have in mind to ensure that severe student problems are dealt with fairly.

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### Reasons for trying to manage severe student behavior problems

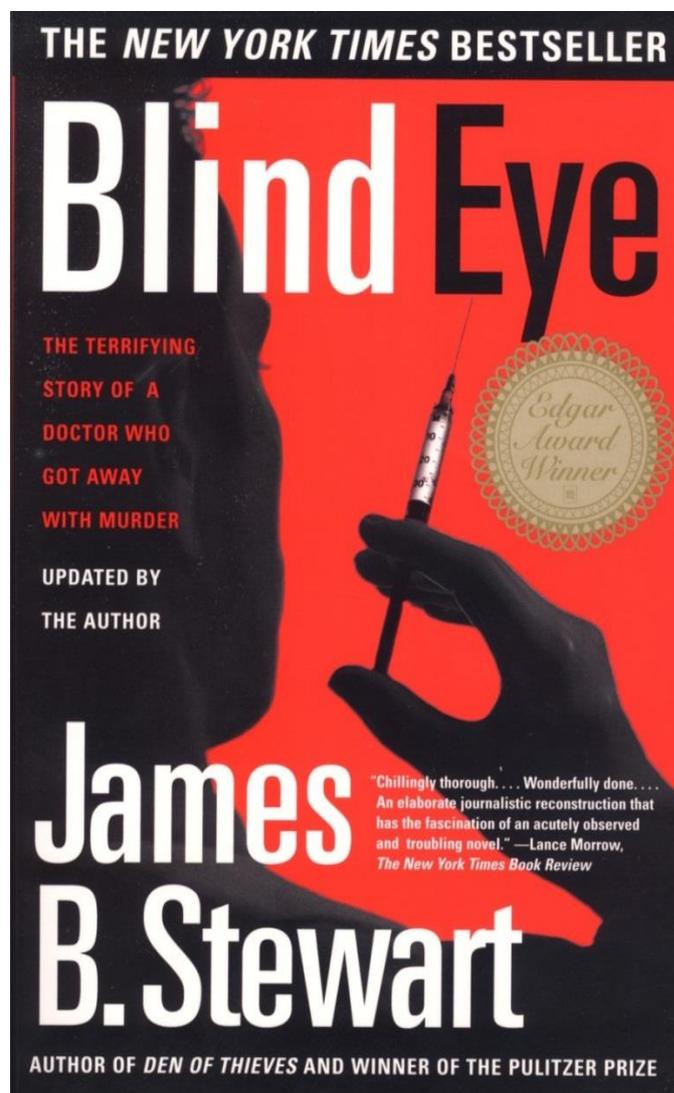
There are two main reasons to seek to manage the behavioral problems of these students.

The first is that universities that provide pre-registration health and social care programs have a responsibility to patients, clients, service users (different terms are used by different professions), and to the general public for their suitability to practise in placement settings upon graduation. The over-riding objective is public protection (also referred to as the public interest) which has three main components:

- the protection of patients, clients, service users;
- maintenance of public confidence in the profession; and
- declaring and upholding proper standards of conduct and behavior.

The second is that there is published evidence from the USA to show that physicians who were disciplined by a state medical board were three times more likely to have a record of unprofessional behavior during medical school than were controls [22-23]. In particular disciplined physicians were more likely to have demonstrated irresponsibility, a diminished capacity for self-improvement, poor initiative, and impaired relationships with students and medical and nursing staff. Furthermore, disciplined physicians were also twice as likely to have failed at least one course on their first attempt during medical school, an association between examination failures early in the medical course and subsequent professional misconduct having also been noted in a study from the UK [24]. The argument therefore is that (at best) early detection and intervention may help students to overcome severe problems. If intervention fails, then expulsion of those whose behaviors seem irremediable may be unavoidable, and can help students avoid futile and hopeless efforts to pursue an unachievable career. In extreme cases, the expulsion of a student could save lives. This is a theoretical possibility that is well illustrated by the case of a medical student whose case was considered by his medical school in the State of Illinois in 1982 [25]. Multiple concerns included, while on an obstetrics and gynaecology hospital placement, poor attendance at caesarean sections and hysterectomies (the student was moonlighting as a paramedic), and producing a write up of a patient it transpired he had not seen. Other students wrote to the medical school urging he be expelled because of his lack of interest in patients and his contempt for education. At a Committee convened to decide upon his future, the student lied and claimed he was supporting his widowed mother and family (in fact she had a good job and was helping to pay for the student's education). The Committee had an unfortunate rule that said that any decision to expel a student required unanimity. In the event, 8 members of the Committee voted to expel the student, one abstained, and one voted to give him another chance, so he was permitted to continue his studies and graduate as a doctor. He went on to become the most prolific medical mass murderer in

the history of the USA, and it transpired that he had started to kill patients when he was a student. Details of a book about the case are shown in Figure 1.



**Figure 1:** This book describes one of the first documented cases in which a medical student's professional suitability had to be determined. The decision that was made had dramatic consequences, which are described in this book.

### Terms used to describe professional suitability for a health or social care career

Different terms are used around the world. In the UK and some other English speaking countries such as Australia and New Zealand, the term "fitness to practise" is used by the health and social care professions (and sometimes other professions) to describe professional suitability. In situations in which professional suitability (for qualified professionals or for students) has been questioned, the procedures to deal with such cases are described as "fitness to practise" procedures. The underpinning principle in all these cases is that the

behavior of the individual has departed significantly from the required standards of professional behavior. Terms other than “fitness to practise” are used in other parts of the world, for example “suitability” procedures and “gatekeeping”, the latter term being particularly used in relation to social work education [26-29]. In North America, fitness to practise procedures is often outlined in a “due process statement”. The due process statement details exactly how breaches of the honour code, unethical or unprofessional behavior are dealt with fairly and consistently [30-31]. These terms may also be applied when a university is considering applications for pre-registration health or social care programs, as it may be possible to identify unsuitability in applicants, maybe on the basis of a previous criminal record or a severe disability, a category which in the UK could, notwithstanding compliance with disability discrimination laws, include certain severe or longstanding mental health disorders.

### **Potentially confusing concepts**

It is common to encounter to confusion between two terms, “fitness to study” and “fitness to practise”. In simple terms, fitness to study is a purely medical matter (akin to being signed off work when sick). Is a student well enough to take part in a health or social care education program, including seeing and interacting with vulnerable patients, clients or service users? Such decisions have to consider not just the wellbeing of the student but also the welfare and safety of patients, who might be put at risk by exposure to a student with a health problem (for example a psychotic illness). On the other hand decisions about fitness to practise, when concerns have been raised, are made by a committee specifically empowered and trained to make complex decisions about future professional suitability.

### **Is professionalism a useful concept when dealing with the questions of professional suitability?**

There has been increasing interest in the subject of professionalism in recent years, and accompanied by greater emphasis on the topic in health and social care education and practice. Sociologists define “profession” as a vocation with a body of knowledge and skills (expertise) put into service for the good of others and for the welfare of society. Three pillars of health and social care professionalism have emerged, “expertise”, “ethics” and “service”. The word “profession” has become intrinsically linked to virtues such as compassion, mercy, and competence. Whilst there have been many definitions of professionalism, as a concept this is in essence an ideal to be pursued. A key concept is that professional status is granted by society, and therefore professionals must meet the obligations set by society.

It is recognised that there are three components to teaching students about professionalism, setting expectations, providing experiences, and evaluating outcomes.

There has been an unhelpful tendency to regard professionalism and fitness to practise as identical concepts, but they are not. Professionalism is about high standards and

best practise, whereas fitness to practise is about minimum standards. Whilst some students may exhibit behavior that is deemed unprofessional, for fitness to practise to be regarded as impaired the behavior has to fall below a certain threshold. Professionalism is about more than avoiding lapses. In the same way that we would not know much about water by describing thirst or a drought, the concept of professionalism is about more than avoiding than simply avoiding extremes of bad behavior.

### **Prevention, identification and general management of problem student behaviors**

There is a general expectation that health and social care students will be provided with detailed guidance on their expected standards of behavior. Such guidance should come from the education provider in addition to that provided by professional bodies linked to specific professions. A good example of profession-specific guidance comes from the General Medical Council, which has set out in some detail the standards of behavior expected from medical students in the UK [14]. This guidance has categorised expected standards into 4 domains:

Domain 1: Knowledge, skills and performance

Domain 2: Safety and quality

Domain 3: Communication, partnership and teamwork

Domain 4: Maintaining trust

This guidance encourages students to go “above and beyond” and strive for professional excellence, aspirations which are accepted as being difficult and challenging.

The expectation is that education providers will have systems to monitor and respond to low-level concerns like missing teaching sessions, failing to hand in work on time or failing to respond to communications from the educational institution. These systems need to provide an opportunity to understand the reasons why students have acted in these ways to identify any underlying issues that indicate the student needs additional support.

Educational institutions have a fundamental duty to warn students when their behavior is causing concern. So, for example, if a student is repeatedly absent, there is a duty to issue a clear and timely warning before taking action against the student. In principle, there should be two components to a warning, a clear and precise indication of what is wrong, and an equally clear exposition of the possible consequences if the problem continues.

The term “support” (for students) is sometimes misunderstood. It means much more than just “being nice”. For a health or social care student, the term support should have as its aim to support students through a variety of issues to help them reach their full potential, and it should embrace four categories of guidance and support:

(i) pastoral guidance and support, for example helping with

- personal issues
- health concerns
- financial worries
- family problems

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(ii) professionalism guidance and support, for example helping with

- discussing professional responsibilities of medical students
- exploring the underlying reasons for any reported unprofessional behavior and explaining the guidance and support available to help students overcome problems
- guidance and support for students attending disciplinary committees

(iii) a combination of pastoral and professionalism guidance and support, for example helping with

- a complaint against a student
- considering an interruption of study (for example to allow for medical treatment)
- a student appealing against a decision
- advising about alternative careers and/or withdrawal from the program
- discussing the impact of a student's examination results

(iv) provision of information about additional sources of guidance and support, for example

- a tutor to help with for portfolio related work
- academic advisor
- problem based learning tutor
- university Occupational Health Service
- university Counselling Service
- university Disability Support Service
- Students Union advice service

It is essential that staff should be willing to provide feedback and honest assessments. One of the well-recognised problems is sometimes called "failure to fail", a reluctance of staff to identify and report problem behaviors that need to be addressed. Staff may need special training to help them feel able to provide constructive negative feedback.

### **Mental health and disability may be relevant**

Mental health problems are commonly encountered in university students [32], including those with severe behavior problems. Some authorities refer to three levels of severity, stress (common, and affects most students at some time), mild to moderate mental health conditions (e.g. depression, general anxiety, social anxiety, panic disorder, obsessive compulsive disorder, post-traumatic stress disorder), and severe mental illness (e.g. schizophrenia, severe depression, bipolar affective disorder) [15]. Specific guidance has been published to help education establishments support such students [15,16].

In the UK, long-term mental health conditions that have an adverse effect on function are considered to be disabilities under the Equality Act 2010. This means that UK educational establishments have a duty to make reasonable adjustments for students with long-term mental health conditions, to help them study and meet the necessary professional outcomes [16]. Some common adjustments include time away from studies or placements to attend support appointments or to receive treatment, placements near to treatment providers or support services, and extra time in written examinations, taking time away from the course, and part-time training (not always available). All educational establishments providing

health and social care professional training in the UK should have dedicated facilities for the support of disabled students.

### **The types of behavior that raise concern about suitability for a health or social work professional career**

The General Medical Council has identified a list of key areas of student behavior that may cause concern about professional suitability, and its guidance includes examples of each category [11]. These categories are:

- Cheating or plagiarism
- Dishonesty or fraud, including dishonesty outside the professional role
- Aggressive, violent or threatening behavior
- Failing to demonstrate good clinical practice
- Persistent inappropriate behavior
- Drug or alcohol misuse
- Criminal offences
- Health (mostly mental health) concerns and insight or management of these.

This list includes drug or alcohol misuse alongside other forms of misconduct. However such behaviors are often regarded as health-related concerns. In the experience of the authors, up to a half of all cases of students with severe behavior problems, to a greater or lesser extent a component of the problem is the student's mental health.

### **Termination of studies and expulsion is a rare outcome**

Termination of studies and expulsion as a result of an inability to meet academic requirements, such as repeated inability to pass examinations, is recognised to be an appropriate and necessary function of educational establishments. The possibility that studies may have to be terminated as a result of severe and/or persistent behavior problems may be a less familiar concept. There is little published data on the numbers of expulsions of health and social care students as a result of severe behavior problems, but for some years the GMC has been collecting such data from UK medical schools. The numbers vary considerably from year to year, and there are methodological problems with the way the data is collected and reported because different medical schools categorise their cases in different ways. However, for what it is worth, and this is unpublished data that has been supplied by the GMC to all UK medical schools, in 2015, out of 40,084 medical students at 35 medical schools in the UK that provided information to the GMC, there were 71 students who attended a fitness to practise committee. Of these 71, 8 were expelled, a minute proportion of the total number of students. In 2016, out of 39,994 medical students, there were 125 that attended a fitness to practise committee, and 17 were expelled, again a minute proportion of the total number of students.

In general, there need to be very pressing reasons for terminating studies, which is generally regarded as a last resort which should only be used if there is no reasonable alternative, and where the student's behavior is considered to be fundamentally incompatible with a clinical career [33].

Termination of studies is a drastic step to take, and the remainder of this article will focus on the basic principles of procedural fairness.

### **Systems to identify and tackle serious and refractory student behavior problems**

A section above lists the various categories of general support and guidance, any of which would be regarded as the first steps to take when a student's behaviour is causing concern. For those with serious, repeated, disruptive behavior problems, there needs to be a system for documenting and investigating these problems, and for making decisions as to the most appropriate next steps to be taken.

In the UK, an investigation is often a step that is taken when behavior problems raise a concern about a student's fitness to practise. There is published guidance on how such investigations should be conducted [34]. An important principle is that whoever conducts the investigation should not have had significant previous involvement dealing with the student, and should not be involved in subsequent substantive decision making about fitness to practise. The role of the independent investigation is to assist an individual or a committee to decide on the appropriate next steps. In smaller programs such decisions are often made by an individual, but in programs with larger numbers of students such decisions are often made by a preliminary or screening committee [35]. At this stage the range of options for intervention is likely to include no action, a written warning, the provision of additional support, (if there are concerns about mental health) referral to an occupational health service and possibly an independent psychiatrist, and referral to a fitness to practise committee. The latter committee is likely to be the only one with the power to expel a student because of major concerns about the individual's ability to practise safely and effectively.

### **Ensuring procedural fairness**

Whilst in the UK much of the advice on procedural fairness is underpinned by case law, mostly derived from cases in which registered health or social work professionals have had their fitness to practise determined by a professional regulator (or a tribunal specially set up to consider cases on behalf of a regulator), there is very little case law derived from student cases, and the principles set out below are based on a general acceptance of what is considered fair, sometimes referred to by the somewhat confusing and poorly defined term of "natural justice".

#### **1. The need for some form of "due process"**

The decision to terminate a student's studies is drastic, and it is an established and agreed basic principle that decision making should not be at the whim of a single individual, and that a process should be followed that allows the student to respond to all allegations that are being made [30,31]. In days gone by, a student might be informed of the

fact that their studies have been ended, either by letter or at a meeting with a single member of staff.

#### **2. Regulations and procedures must be carefully documented and provided to all**

All regulations that apply to student conduct, and all procedures for dealing with student behavior problems, need to be clearly set out in writing. They need to be provided to all students at the commencement of studies (or earlier, for example to applicants). They also need to be provided to all teaching staff. They may need to be provided again if they are about to be engaged for a particular student.

Students need to know in advance how departures from expected standards of behavior will be dealt with. Written procedures should specify the standard of proof – in the UK in all student suitability cases this is the "civil" standard, namely the balance of probability, and not the "criminal" standard, namely beyond all reasonable doubt. It is helpful if the written procedures explain what should happen if equal number of committee members vote in favour of and against a student.

#### **3. Significant changes to the rules must be promptly notified to all students**

By accepting a place on an education program, there is in effect a contract between the student and the education provider, and this needs to be borne in mind before introducing significant new regulations that could have an adverse effect on an individual student.

#### **4. Need to minimise delays**

Whilst allowing the student and the school sufficient time to prepare, the process should have time limits and be designed to ensure the case is heard with the minimum delay. The amount of time which is reasonable will depend on the type of case. That said, timetable clashes (such as with important examinations), the need for additional evidence (for example a medical report from an independent psychiatrist) can cause unavoidable delays. Whilst delays are often considered to have a negative impact on a fair process, they can also be to a student's potential advantage, in that a significant delay give the student an opportunity to demonstrate an ability to change, and demonstrate remediation and insight.

#### **5. Those involved in substantive decision making should not have had previous involvement in the case**

Those involved (say as members of a fitness to practise committee) in making substantive final decisions about professional suitability of a student should not have had any previous involvement in procedures that will have brought the case to this stage. So, for example, if a head of a school makes a decision that a student must be referred to a fitness to practise committee, it is undesirable for that head of school to then serve as a member of the committee that is tasked with

deciding the student's future because it raises a concern that they will not come to the decision making with an open mind. Similarly, members of staff who have had significant involvement, as a personal tutor, an academic advisor, or a clinical supervisor, should not later serve as a member of a decision making committee because they may have supplementary knowledge of the student which does not form part of the evidence in the case. This need for structural independence often causes problems for small programs where most or all staff know and/or have closely interacted with most/all students. One way to ensure fairness in such situation is to invite appropriate staff from another educational institution to serve on a decision making committee.

#### **6. Need for impartial decision makers**

A person who has a pecuniary or other private interest in the outcome, or who might be thought by a fair-minded and informed observer to have such an interest, ought not to adjudicate on an issue, at least without the knowledge and consent of those involved. Private interests have been interpreted widely. Making public statements has been identified as a reason why impartiality might be challenged (e.g. a doctor who has written in an article that anyone with a criminal conviction should never be allowed could never be a doctor might be thought to lack impartiality for a fitness to practise case).

#### **7. The student should receive all relevant documentation well in advance of a hearing**

Students facing decisions that could affect their future career need sufficient time to prepare for the hearing. This is needed to give the student ample opportunity to seek and obtain advice, and to prepare a written submission responding to any allegations. The Committee also needs sufficient time to read any submissions from the student. The amount of time needed will in part depend on the extent of the paperwork. It would be unfair for a school to provide additional documentation that was adverse to the student without giving the student a chance to consider and respond to this material. Those organising decision making meetings should take steps to prevent this happening. However there may be highly relevant developments in case very shortly before a decision making meeting, and to ensure fairness it may be necessary to postpone the meeting. The whole principle of a student fitness to practise meeting is that all relevant material should be pre-circulated, and neither side (school or student) should take the other by surprise.

#### **8. The decision making committee should receive the same papers as the student**

A fundamental principle of fairness is that the decision making committee should receive no materials that have not also been supplied to the student. So, for example, it would be unfair for an educational institution, once a decision-making committee's deliberations to have begun, to provide the

committee with guidance on sanctions and information about previous cases if this had not already been pre-circulated to all involved. One trap is when an enthusiastic Committee member does their own research on some aspect of the case (for example newspaper reports of a case) and then unexpectedly produces this new material at the meeting. Committee members should confine their reading to the papers that have been supplied, and students should be required to contribute any papers they want the Committee to consider in advance and in accordance with the procedural timetable.

#### **9. Allegations must be adequately particularised**

An important principle is that a student must be made aware, well in advance, of full details of the allegations that are being made. Vague or broadly structured allegations are unfair, because they make it impossible for students to defend themselves. So, for example, allegations of "poor attendance" or "unprofessional behavior", without any further details, are unfair, as they give no indication of what the student has done that was wrong. Instead of just saying "poor attendance", the concerns should be expressed in as much detail as possible e.g. "Poor attendance, namely that in the 8 week Year 4 'Mind and Movement' block from 9.1.12-2.3.12, student X failed to attend the tutorials held on 10.1.12, 25.1.12, 7.2.12, 15.2.12, 21.2.12, 27.2.12, thereby missing 6 of the 10 scheduled tutorials". Precision is particularly important for very serious allegations, most notably dishonesty or sexual motivation.

#### **10. Allegations should, if possible, be mapped to relevant mandatory requirements**

Some concerns are self-evident, so, for example, if a student has been caught cheating in an examination by reading from a textbook which has been smuggled in to the examination room, or if a student has been thrown out of a Hall of Residence because of repeated bad behavior, then there may be no need to state the details of the relevant University regulations which have been breached. However where there are mandatory requirements it may be helpful to map allegations or concerns to specific the education institution or program regulations (for example "failure to provide a medical certificate in relation to a 3 week absence due to illness from 6 February to 27 February 2012 was in breach of the program regulations which require the production of a medical certificate for any sickness absence of 5 days or more – see pages 29-30 of the MB ChB Program Handbook 2011-2012").

There may also be guidance about how students should behave. Since this is rarely mandatory it is usually more appropriate not to include it in allegations. However once a finding of fact has been made regarding an allegation, then the decision making committee is at liberty to explain (in its written determination) why the student's behavior is unsatisfactory, and this might include reference to departures from standard professional guidance.

**11. Both sides should have equal access to the committee and have an equal entitlement to be listened to and to advance evidence.**

It would be unfair if a school was allowed to spend a full morning presenting a case against a student, but for the student to only be allowed 5 minutes to present their case. Likewise fairness requires that the school representative and the student should not attend separately to present their cases, rather both should be in attendance at the same time to present, listen to, and respond to the case against the student and answer questions from the committee.

**12. The Committee should be allowed to intervene to ensure fairness**

The decision making committee should be entitled to intervene, and the chair of the committee ought to do so if the correct procedure is not being followed or it appears the process is in any way unfair. The fundamental point about impartiality should persist throughout the hearing of all the evidence and submissions. This means that the behavior and any interventions by the committee while the hearing is ongoing should never suggest that they have a preconceived idea or have reached a concluded view about the case.

**13. Written procedures should always be followed**

Written procedures for the conduct of the meeting should always be followed. Failure to do so might lead a student to suggest that there has been a procedural irregularity, and this may give grounds for an appeal. If aspects of a procedure are discretionary, or the Committee has to deal with a situation not provided for in written procedures, it is essential that a fair and balanced approach is taken to dealing with the issue.

**14. The committee decisions must be that of the committee alone**

The decisions of the committee must be of the committee alone, and it must not seek advice or let others outside the process influence it. If a committee needs specialist advice, for example on a health condition or a legal aspect, any advice should be shared in writing or given orally in front of the parties so that if necessary they can comment if they disagree. Education institutions should not permit those who were not members of the committee to change decisions.

**15. The committee must be satisfied it has sufficient evidence**

Recognising that the process is usually inquisitorial rather than adversarial, a decision making committee needs to be satisfied that it has been provided with as much information as is required for a proper decision, and may ask for more if it is genuinely needed to determine the issues in dispute and the outcome of the case.

**16. Need to give reasons for decisions**

It is important that the outcome letter bearing the committee's decisions explains the reasons for those decisions. The underpinning principle is that when one or more important decisions have been made the student and the school need to know the reason or reasons for the decision. This is particularly important in the case of contested matters. An example might be a case where a student fails to submit a piece of work, even after being given repeated opportunities to do so, and it is alleged by the school that the work had in reality never been completed and submitted. The student's response is that the work was indeed submitted on time, but was lost by the school. If the Committee concludes that it was most probable that the piece of work had been neither completed nor submitted, then the outcome letter needs to explain the committee's reasons for reaching that conclusion.

**17. Sanctions should never have a punitive intention**

In a fitness to practise case, sanctions should never have a punitive intent, though they may have that effect. Sanctions are imposed to protect the public interest.

**18. Requirement for the student to attend the committee meeting**

The regulations should set out whether or not a student is required to attend a meeting of a decision making committee. Where attendance is mandatory, the regulations need to explain what may happen if a student fails to attend. Most commonly, if the committee is satisfied that the student has been given every opportunity to attend, the committee has the power to consider the case in the absence of the student, and this needs to be stated in the regulations.

**19. The student's right to be accompanied**

Fairness demands that a student attending a decision making committee should be permitted to be accompanied by one or more individuals, and in the UK this is quite standard. What are not standard are rules about who is permitted to accompany the student. In many institutions the rule is that only one person may accompany a student, but there are no restrictions as to who that person may be. Some institutions restrict the accompanying person to being a member of staff, a fellow student, or someone from a relevant professional body.

There are no precise figures, but it is thought that (for various reasons) over half of UK health and social care education providers will not allow a student to be accompanied by a lawyer or legal adviser. In the UK, most medical, dental, pharmacy and optometry students are able to receive free legal advice and support from their respective defence body which (with a few exceptions) offers free membership and support for student members. Whether or not health and social care students should be permitted to be accompanied by a legal adviser is a controversial subject, upon which we have written elsewhere [36]. The education

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institution's regulations should make it clear who type of person is permitted to accompany a student.

## 20. The right of appeal

It is standard practice at UK universities that students can appeal against decisions. The regulations should set out the grounds for appeal. In the case of a fitness to practise committee, the usual possible grounds for appeal are procedural errors, new evidence that was unavailable and could not have been obtained at the time of the hearing, and a disproportionately severe outcome.

## Conclusions

Because the way that severe student behavior problems are dealt with may be education institution-specific, country-specific and profession-specific, this review concentrates on the general basic principles that underpin fairness when dealing with these problems.

When designing or implementing rules, regulations and formal procedures, the questions that should remain uppermost ought to be (i) is one being fair to the student and considering their needs, and (ii) is one also bearing in mind the needs of the patients, clients, service users or the public? Decision makers need to try to strike a balance between these two forces. The outcomes of cases should be proportionate, that is the educational institution should do the least necessary thing to protect the public interest. This is why guidance, support and other interventions are important first steps. However it is recognised that in the most intransigent of students nothing short of expulsion may be required.

A current problem in the UK is that expelled health and social care students not uncommonly manage to gain a place on the same or another health or social care education program, usually at a different university, sometimes in another country. Commonly such students fail to mention their previous health or social care studies and their expulsion on the application to join another program. It is also common for such students to change their name and/or date of birth, to prevent detection of their previous educational record. An education institution will not have the power to prevent an expelled health or social care student from applying to study the same programme or another at another institution, and the methods to prevent the recirculation and recycling of expelled students are poorly developed.

Encouraging fairness is the main reason for writing this paper. However another reason for ensuring that procedures are fair is the need to reduce the risk of the educational institution facing a legal challenge in court or a complaint to an ombudsman to a decision to expel a student. Such challenges are believed to be relatively uncommon in the UK, but defending such challenges can prove very costly.

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