



## **NCG Higher Education Fitness to Study Policy and Procedure**

Date approved: 08.07.21  
Approved by: HE Academic Board  
Review date: 08.07.24  
Responsible Manager: Assistant Director of HE Quality and Standards  
Group Executive Lead: Group Director of Quality  
Accessible to Students/Customers: Yes

### **1. Consultation**

Consultation undertaken with:

- Newcastle College University Centre: Yes
- West Lancashire College: Yes
- Group Services: No
- Kidderminster College: Yes
- Carlisle College: Yes
- Southwark College: Yes
- PSRBs

### **2. Applicability of Policy to Organisation**

This policy applies to:

- Newcastle College University Centre: Yes
- West Lancashire College: No
- Group Services: No
- Kidderminster College: Yes
- Carlisle College: Yes
- Southwark College: Yes
- Collaborative partners: Yes

### **3. Scope and Purpose of Policy**

This policy and procedure sets out how NCG will normally respond to instances where a concern is raised regarding a student's fitness to study and the type of action that NCG may take to deal with the concern and to support the student.

#### **4. Policy Statement**

This policy and procedure applies to students admitted for and undertaking higher education (HE) programmes at NCG. Fitness to study relates to an individual's capacity to participate fully and satisfactorily as a student, in relation to academic studies and life generally at NCG. NCG is committed to supporting student wellbeing and recognises that a positive approach to the management of physical and mental health is crucial to student learning, academic achievement and progression and wider student experience.

#### **5. Linked Policies**

- Student Positive Behaviour Policy
- HE Academic Regulations
- Student Higher Education Academic Appeals
- Student Fitness to Practise Policy

#### **6. Linked Procedures**

N/A

#### **7. Equal Opportunities Statement**

An Equality Impact Assessment was completed on **TBC**

#### **8. Location and Access to the Policy**

The NCG Higher Education Fitness to Study Policy and Procedure is located on the NCG Website - <https://www.ncgrp.co.uk/guide-to-information/our-policies-and-procedures/>

#### **9. Person Responsible for the Policy**

HE Registry (Assistant Director of HE Quality and Standards)

## **NCG Higher Education Fitness to Study Policy and Procedure**

### **1. What is fitness to study?**

- 1.1 Fitness to study relates to an individual's capacity to participate fully and satisfactorily as a student, in relation to academic studies and life generally at NCG.
- 1.2 NCG is committed to supporting student wellbeing and recognises that a positive approach to the management of physical and mental health is crucial to student learning, academic achievement and progression and wider student experience.

### **2. The purpose and scope of this policy**

- 2.1 The purpose of this policy is to provide a suitable and co-ordinated response by academic and support staff in circumstances where:
  - the situation is deemed to be urgent; and
  - other internal procedures such as the progress rules or the Student Positive Behaviour policy are not appropriate; and
  - all other avenues within colleges and curriculum areas have been exhausted.
- 2.2 This process may be invoked following incidences or a pattern of behaviour that breaches NCG's Student Positive Behaviour policy, or other alternative NCG procedures, where it is believed that there may be an underlying issue such as pre-existing physical or mental health difficulty (or one subsequently disclosed by the student). In such cases, NCG reserves the right to initiate this Policy, or other NCG processes, where appropriate. NCG may refer the treatment of a student's case out of one process to another to secure an appropriate response on the facts of the case. In such cases, NCG's Executive Director of Higher Education (or nominee) will make the decision as to if/when cases should be transferred.
- 2.3 Where concern(s) have been expressed about the fitness to practise of a student following a course of study that, if completed successfully, would enable them to apply to be placed on the Register of a Professional Body, NCG will normally deal with such matters under the terms of its Fitness to Practise Regulations. However, NCG may if appropriate choose to initially address the concern(s) under the Fitness to Study process.

### **3. When to use this policy**

- 3.1 This policy should be used when a student's fitness to study is a cause for concern and all other procedures or options have been considered or exhausted. It is to be used as a last resort. The aim is to work with the student to understand the nature of the concern(s), find a constructive way of addressing them, and therefore ensure that NCG has provided reasonable support to enable the student to complete their studies. It is anticipated that the majority of issues could be resolved without recourse to this Policy.
- 3.2 A student's fitness to study may be a cause for concern as a result of a wide range of circumstances, including (but not restricted to) the following:
- 3.2.1 a student poses a risk to their own health, safety and/or wellbeing and/or that of others;
  - 3.2.2 a student's behaviour is (or is at risk of) adversely affecting the teaching, learning and/or experience of other students;
  - 3.2.3 a student's behaviour is (or is at risk of) adversely affecting the day-to-day activities of NCG or a placement provider;
  - 3.2.4 a student's support needs fall outside the scope of the support and other services which NCG can reasonably be expected to provide either directly or indirectly.
  - 3.2.5 A student is physically and/or mentally unable to meet the required occupational/professional standards to complete the course.

### **4. Informal action**

- 4.1 It is expected that College and curriculum area staff will approach students once concerns regarding fitness to study have been raised and attempt to resolve the matter through informal discussions with the student. The student should be encouraged to use one or more of the support services offered by the College.
- 4.3 Support for the student should be the shared responsibility of a member of the curriculum team and College relevant support services.
- 4.2 Good communication between staff in Colleges and curriculum areas may be key to achieving informal resolution of concerns regarding fitness to study.

4.3 Specific academic arrangements should be considered by Colleges and curriculum areas, and action plans agreed with the student, which are regularly reviewed.

4.4 The majority of cases can be resolved this way.

## **5. Procedure**

5.1 The Fitness to Study policy may be invoked when all informal avenues have been unsuccessful, the other procedures available such as the progress rules and the Student Positive Behaviour policy have been considered and deemed to be inappropriate, the student is not engaging and action plans have not been met.

### **5.2. Stage 1 – Case Review**

5.2.1 A meeting of a Case Review Panel can be convened by the College HE Lead, who will act as Chair to the Panel, usually made up of the following:

- an academic representative from the student's curriculum area
- a representative from the relevant student support team
- the Head of Curriculum (NCUC) or Quality Manager (all other provision)
- a representative from the College Support Services (normally not the person supporting and advising the student)
- the Equality, Diversity and Inclusion Lead
- a representative from HE Registry
- a representative of the private accommodation provider (where concerns have been raised regarding behaviour in the private accommodation).

5.2.2 Before the Case Review Panel meeting, medical assessment may be sought, usually from the student's GP or medical practitioner. The student will be encouraged to consent to the assessment (this can take up to 12 weeks). If the student does not give their consent, a decision will have to be made without this evidence. The student will be able to submit documents for the Panel to consider and will be given a copy of any documents seen by the Panel. The student may request to attend all or part of the Case Review Panel meeting. The Panel will make a reasoned decision regarding whether the student should attend, for example if the student is ill or refuses to attend. In the event that the student is ill, depending on the severity of the illness, the meeting will

either proceed without the student present or be rearranged (the meeting will only be rearranged on one occasion). If the student does attend, they will have the right to bring a friend or representative to the meeting.

5.2.3 A letter will be sent to the student within five working days of the meeting setting out any decision made and the reasons for the decision.

5.2.4 The Panel will order its proceedings as it sees fit and may call witnesses if necessary.

5.2.5 The outcome agreed by the Panel will normally be an outcome not already attempted as part of the informal action taken by the College or curriculum area. The outcomes available to the Panel are:

- No further action required.
- To monitor the student formally for a specific period of time. An action plan will be agreed between the student and their personal tutor detailing any steps the student will need to take and the support to be provided to the student. This action plan will normally detail different actions to any plan previously agreed as part of the informal action taken by the College or Curriculum Area. Regular review meetings will be arranged with the student and a nominated member of staff. The student should be made aware of what will happen if the action plan is breached, which will normally involve their case moving to stage 2.
- To recommend a specific academic arrangement be put in place which may include a suspension of studies. Such recommendations should be agreed by the student's College and Curriculum Area where appropriate (normally the representatives on the Panel) and the student. If the student does not agree, the case will move on to stage 2.
- To refer the case to a Fitness to Study Panel, under stage 2 of this procedure. This will be appropriate in serious cases, for example where all previous attempts to support the student have been unsuccessful, where the student has little insight regarding their fitness to study or where there is evidence of a serious risk to the health and safety of the student or others in the learning community. This course of action would be used when it is considered that suspension, temporary exclusion, permanent exclusion or withdrawal may be the appropriate course of action or if the student has not agreed to a recommendation or action plan made under stage 1.

### **5.3. Stage 2 – Fitness to Study Panel**

5.3.1 This stage will only be invoked in the following circumstances:

- following a temporary exclusion under section 6 of this policy; or
- following a referral from a Case Review Panel; or

- if the student does not agree or is not engaging with a recommendation of a Case Review Panel; or
- the student does not engage in the support offered by the relevant support team
- if in the opinion of the NCG Academic Registrar the case is sufficiently serious and urgent to warrant an immediate referral without consideration of stage 1.

5.3.2 The Academic Registrar can convene a Fitness to Study Panel to consider the case and will act as Chair to the Panel. The Members of the Panel will usually be:

- an academic representative of the student's College
- a representative of the student's Curriculum Area (usually the HE Lead)
- a representative from the relevant student support team
- a representative of another College
- a representative from the College Support Services (normally not the person supporting and advising the student)
- a member of the Safeguarding Team with responsibility for Equality, Diversity and Inclusion Lead
- a representative of the private accommodation provider (where concerns have been raised regarding behaviour in the private accommodation).

5.3.3 As with the Case Review Panel, the student will have the opportunity to submit documents for the Panel to consider and will be sent a copy of any documents seen by the Panel. The student may request to attend all or part of the Panel meeting or may ask for a Student Representative to attend the meeting on their behalf. The Panel will make a reasoned decision regarding whether a student should attend, which may not be appropriate in all cases (see 5.2.2).

5.3.4 The Panel may order the proceedings at its discretion and may call witnesses if required. The Panel may request further medical evidence. If a Panel is convened following a temporary exclusion under section 6, medical evidence will be required regarding the student's fitness to study before the Panel meets. The student might incur a cost in requesting medical evidence to support their case.

5.3.5 The Panel will make a recommendation to NCG's Executive Director of Higher Education. Possible recommendations may include:

- A short-term exclusion to allow the student to be assessed by a medical professional, access support services both within and outside of NCG or for NCG to obtain further information. The exclusion will be reviewed within four weeks as set out below in relation to emergency temporary exclusion.
- Suspension with conditions for a period up to twelve months. A student who is suspended from NCG will be prohibited from participating in NCG activities and may also be prohibited from entering NCG premises or have restricted rights to enter the premises. The terms of the suspension will be notified to the student in writing. The decision to suspend a student shall be reviewed as necessary by the Panel.
- Exclusion or requirement to withdraw - if the Panel concludes, taking into account the individual circumstances of the case and any supporting medical evidence, that there is no reasonable prospect of the student re-engaging with their programme a recommendation will be made to the NCG Executive Director of Higher Education that the student is permanently excluded or required to withdraw. This recommendation should only be made in the most serious cases.
- Any other action considered to be appropriate and proportionate.

## **6. Temporary Exclusion**

6.1 The Academic Registrar may refer the case straight to NCG's Executive Director of Higher Education if it is considered that the risk to the student or NCG is very high and an immediate temporary exclusion is the most appropriate course of action.

6.2 NCG's Executive Director of Higher Education may impose a temporary exclusion with immediate effect pending the invoking of this policy. A student who is subject to a temporary exclusion order is prohibited from entering NCG premises and from participating in NCG activities. The exclusion may, exceptionally, be subject to qualification, such as the permission to take an examination or to enter NCG premises to attend a meeting with a relevant support service. The terms of exclusion will be individual to each case and will be notified to the student in writing. A student will be marked as 'suspended' on their student record during the period of exclusion so that accommodation and tuition fees do not continue to accrue.



- 6.3 The decision to exclude will normally be reviewed after four weeks. The review may include a recommendation that a Fitness to Study Panel be convened to consider the case.

## **7. Return to study**

- 7.0 The Case Review Panel or Fitness to Study Panel that made the recommendation regarding a suspension or temporary exclusion, or as many members of the original Panel as possible, will be reconvened to consider whether the student is fit to return to study. Further medical evidence will be requested from the student regarding their ability to fully engage with their studies, meet the requirements of the programme and live independently in halls or in the community. A student will only be permitted to return if, after receiving the medical evidence, the Panel is satisfied that the individual is fit to study.

- 7.1 If a student agreed to suspend studies under stage 1, the Case Review Panel that originally considered the matter can make the decision regarding a return to studies without referral to NCG's Executive Director of Higher Education if it is satisfied that the student is fit to return. If NCG's Executive Director of Higher Education made the decision to suspend or temporarily exclude under stage 2 on the recommendation of the Fitness to Study Panel, the Panel should reconvene to consider whether the student is fit to return to study and make a recommendation to NCG's Executive Director of Higher Education. NCG's Executive Director of Higher Education will make the final decision in the light of the Panel's recommendation.

- 7.2 When a student's temporary exclusion expires, under this policy a Fitness to Study Panel will be convened under stage 2 to consider whether the student is fit to return and if so to consider any support that the student may require to support a return to studies, such as regular review meetings or a return to study action plan. The general expectation is that the student will take personal responsibility for fully engaging with this support.

## **8. Right of appeal**

- 8.1 The student may appeal against a suspension or requirement to withdraw. A letter setting out the grounds of appeal should be addressed to NCG's Academic Registrar and emailed to [heregistryadmin@ncgrp.co.uk](mailto:heregistryadmin@ncgrp.co.uk), to be received within 21 days of the date on which the order for suspension or the requirement to withdraw was made. The student is encouraged to seek assistance from the Students' Union Advice Service when preparing the letter of appeal.
- 8.2 The appeal will be heard by a committee. The membership and procedure of an appeal committee will be the same as that set out under the Student Complaints Procedure.

## **9. Nominees**

- 9.1 References in these Regulations to the holders of any office shall be construed to refer either to the office holder or their respective nominee.

## **10. Guiding principles for the policy and procedure**

- 10.1 The fitness to study process seeks to decide whether on health grounds it is appropriate for the student to continue with his/her studies, whether in exercising its duty of care to others or where it is deemed not to be in the interest of the particular student.
- 10.2 Individuals appointed as panel members at the formal stage of any fitness to study process will be impartial and must have had no previous involvement in the student's case. Decisions will be made objectively and based on relevant evidence.
- 10.3 The standard of proof applied at every stage of this policy and procedure is the balance of probabilities.
- 10.4 Advice, guidance and evidence regarding a student's fitness to study will, where appropriate, be sought from appropriate practitioners, including health professionals and other external experts.
- 10.5 Any requirements or conditions imposed on the student by a panel should be intended to evidence that conditions have been met, and that a student is able to continue with his/her studies without posing a risk to him/herself or to others.
- 10.6 In implementing this policy and procedure, the College will remain mindful of its duty of care and of its obligations to students under the Equality Act 2010 including in appropriate cases to make reasonable adjustments for disabled students. It will also remain mindful of the often confidential and sensitive nature of fitness to study matters and of its obligations under the Data Protection Act 1998.
- 10.7 If students remain dissatisfied with the decision following appeal, they may, in circumstances identified in the Higher Education and Research Act 2017, refer the matter to the Office of the Independent Adjudicator for Higher Education in England and Wales (OIA). Information relating to the OIA is available at [www.oiahe.org.uk](http://www.oiahe.org.uk).

## **11. Responsibilities of NCG**

- 11.1 As part of student induction staff will familiarise the students with this policy and procedure, and make reference to this at regular intervals during their programme, including information that must be disclosed. This will enable the student to make informed decisions.

- 11.2 Any member of staff who has serious concerns that it may not be appropriate for a student to continue with his/her studies, whether in exercising its duty of care to others or where it is deemed not to be in the interests of the particular student is advised to contact the relevant support service to discuss the concerns - at first instance without disclosing the student's name/personal details (to protect the student's right to confidentiality).

## **12. Responsibilities of students**

- 12.1 Students must advise NCG if there are any changes to their health which impact, or has the potential to impair, their ability to continue with their studies.

## **13. Support and advice to students**

- 13.1 Wherever possible, students should have opportunities to seek support for any matter before it becomes a fitness to study concern. This should include support by relevant academic staff and appropriate support from services within NCG.

13.2 When a fitness to study concern is identified, the curriculum area should:

- identify an academic member of staff, normally the personal tutor, to offer support to the student during the fitness to study process;
- provide pastoral support to the student (any person providing this should not be involved in investigating or hearing fitness to study concerns);
- advise the student about the range of services available from relevant support services which may include occupational health services, confidential counselling, disability services and where applicable the Students' Union;
- encourage the student to discuss any problems in a supportive and confidential environment;
- offer support and remediation, where appropriate, to the student;
- conduct an assessment of the risk to the student and other students.

- 13.3 Students are strongly advised and encouraged to seek advice from relevant support services and where applicable the Students' Union.

- 13.4 Students will be entitled at any stage under this policy and procedure to be accompanied and/or represented by one member of staff, friend, relative, or representative of the Students' Union. This is in addition to

any health professional or support worker who may usually accompany the student.

#### **14. Stages of the procedure**

- 14.1 Members of staff who consider that a student's fitness to study is impaired should inform the Head of Curriculum or Head of Student Support of their concerns at the earliest possible opportunity.
- 14.2 The Head of Curriculum will consider the concerns and determine whether steps should be taken under this policy and procedure and, if so, at which stage of the procedure the concerns should be considered.
- 14.3 There are two stages for dealing with concerns regarding a student's fitness to study under this procedure:
  - 14.3.1 Informal stage – the informal stage will normally be used in relation to initial concerns regarding a student's fitness to study.
  - 14.3.2 Formal stage – the formal stage will normally be used when informal avenues have been unsuccessful, the other processes available have been considered and deemed to be inappropriate, and the student is not engaging and action plans have not been met.
- 14.4 Should a student without good cause be unwilling or unable to participate at any stage of this procedure or attend a meeting/hearing, the College may nonetheless follow the procedure in their absence. Students who fail to attend an informal stage meeting, without good cause, may be progressed to the formal stage of this procedure.

#### **15. Investigations into fitness to study concerns**

- 15.1 Prior to any matter being determined at a meeting or hearing under the informal or formal stages of this policy and procedure, NCG may undertake any such investigations as it considers reasonable and appropriate in the circumstances.
- 15.2 A member of staff from the curriculum leadership team will be appointed to conduct an investigation and will determine the process to be followed for the investigation and may speak with the student concerned and with other students, staff and, where relevant, third parties (such as placement providers or health professionals) and call for information.
- 15.3 Any investigation will be carried out in a transparent and fair manner. The purpose of any investigation may be, for example, to inform the College of the appropriate manner in which to deal with the matter, at which stage a matter should be dealt with, or to prepare a report to be presented at the relevant meeting or hearing. As part of this process, the student may be asked to provide specific information including, for

example, relating to their health/medical condition. The member of staff may also consider it appropriate to seek input and evidence from relevant professionals, including health professionals and/or other external experts.

- 15.4 The student will normally be informed that an investigation is being carried out and of the identity of the member of staff appointed to conduct the investigation.

## **16. Informal stage**

- 16.1 Initial concerns regarding a student's fitness to study will normally be considered under the informal stage. This will involve informal discussions with the student and action plans agreed.
- 16.2 The leader for the programme will notify the student of the nature of the concern(s) regarding their fitness to study and invite them to attend a meeting under the informal stage to discuss them, together with any support needs the student may have. In addition to the leader of the programme, the Head of Curriculum (NCUC) or College HE Lead (other provision) will attend the meeting (and will chair the meeting) and an appropriate member of staff from student support services may also be invited to attend. Depending on the nature of the concern(s), the programme leader may seek information from other individuals in order to deal with the matter and ensure any support needs are met.
- 16.3 The student will be provided with a copy of this policy and procedure and advised of their right to be accompanied during the meeting and where he/she might wish to seek advice.
- 16.4 During the meeting, the student will be provided with an opportunity to respond to the concern(s), ask questions and raise any points they consider to be relevant.
- 16.5 The College Head of Curriculum (NCUC) or College HE Lead (other provision) will determine whether or not the student's fitness to study has been impaired and the appropriate outcome at the informal stage. The potential outcomes of the meeting include (but are not limited to) one or more of the following:
- that no further action is taken under the fitness to study policy and procedure, i.e. the student is deemed fit to study;
  - that an action plan be drawn up and agreed with the student;
  - that the matter be considered further at a formal stage hearing under the formal stage of this procedure;
  - that the matter be considered further under another NCG policy/procedure.

16.6 The College will write to the student, normally within five working days of the meeting, to confirm the outcome. The details and outcome of the meeting will be recorded on the College's fitness to study informal stage report form. The student will be asked to sign a copy of the report and return this to the College. A copy of the report, and any associated documentation, will be retained in the student's personal file for the duration of the programme.

## **17. Formal stage**

### **17.1 Stage 1 – Case Review**

When informal avenues have been unsuccessful, the other processes available have been considered and deemed to be inappropriate, and the student is not engaging and action plans have not been met, the fitness to study will normally be considered under the formal stage.

17.2 The College HE Lead will notify the student in writing of the nature of the concern(s) regarding their fitness to study and explain that the concern(s) will be considered under the formal stage of this policy and procedure. The student will be invited to attend a case review to consider the concern(s), together with any support needs the student may have. The student will be provided with a copy of this policy and procedure.

17.3 Arrangements for a formal case review panel will be made by College HE Lead.

17.4 The student will be given a minimum of ten working days' notice of the date of the hearing. The student will be provided with:

- details of the date, time and place of the hearing;
- full details of the nature of the concern(s), including copies of any relevant documents, statements, correspondence and student records, (except where the provision of such information would be likely to breach the Data Protection Act 2018 or other legislation);
- details of the members of the panel (see paragraph 17.9);
- details of any other individuals who may be asked to attend the case review to give evidence;
- details of their right to be accompanied during the case review;
- details of their right to submit a statement and provide relevant documentary evidence (any witness statements must be signed and dated);
- details of their right to call witnesses during the case review.

17.5 All information for consideration by the panel must be received by the College HE Lead at least five working days before the date of the case review.

17.6 Those in attendance at the case review, in addition to the panel members, will include:

- the leader of the programme who will outline the fitness to study concern(s), together with any evidence in support;
- any witnesses (including, for example, any medical or other professionals), where possible, to be called by the leader of the programme;
- a College administrator who will take a note of the case review.

17.7 Relevant witnesses may be invited to give evidence in person, if appropriate, at the discretion of the Chair of the panel.

17.8 Where a formal panel is convened following a meeting held under the informal stage of this procedure, the panel will be convened as soon as possible but normally no sooner than 10 working days, and no later than 35 working days, after the informal meeting. In exceptional circumstances, and on provision of a satisfactory reason, a student may request the rearrangement of the panel on one occasion only.

17.9 The panel will normally comprise of:

- College HE Lead (Chair);
- an academic representative from the student's curriculum area
- a representative from the specialist student support team
- the Head of Curriculum (NCUC) or Quality Manager (all other provision)
- a representative from the relevant student services (normally not the person supporting and advising the student)
- the Equality, Diversity and Inclusion Lead
- a representative from HE Registry
- a representative of the private accommodation provider (where concerns have been raised regarding behaviour in the private accommodation).

17.10 Panel members must be impartial and have no direct interest or prior involvement in the matters under consideration.

17.11 An Officer (usually the College Senior Administrator) will be in attendance to produce a formal record of the case review.

17.12 The student may request to attend all or part of the Case Review Panel meeting. The Panel will make a reasoned decision regarding whether the student should attend. If the student does attend, they will have the right to bring a friend or representative to the meeting.

## **18. Procedure for a fitness to study case review**

18.1 The following procedure will normally apply, although the fitness to study panel may, at its discretion, adjourn or depart from this procedure if it considers it to be in the interests of fairness to do so.

18.2 The Chair will invite all those present to introduce themselves and will explain the purpose of the case review. Where a student's companion or witnesses are not bound by a Professional Code/Rules, the Chair will reinforce that the content of the meeting is confidential.

18.3 The leader of the programme will outline the fitness to study concern(s), together with any evidence in support.

18.4 The student or their representative will have an opportunity to respond to the concern(s) and present their case.

18.5 The leader of the programme shall have an opportunity to call any relevant witnesses.

18.6 The student or their representative will have an opportunity to question any of those witnesses.

18.7 The student or their representative will have an opportunity to call any relevant witnesses.

18.8 The leader of the programme shall have an opportunity to question any of those witnesses, and the student.

18.9 The panel may ask questions of either party at any stage during the case review.

18.10 The leader of the programme will sum up, with particular reference to the implications for the student's fitness to study.

18.11 The student or their representative will sum up, with reference to any mitigating factors.

18.12 The panel may ask for specific enquiries to be undertaken, additional witnesses to be called and/or additional information to be presented. If necessary, the panel may determine the case review should be adjourned for these purposes.



- 18.13 The panel will deliberate the issues and reach its determination in relation to the fitness to study concerns in private. The panel will make its findings, and reach its decision, on the balance of probabilities (standard of proof). If a consensus of decision is not achieved, the Chair will have the casting vote.
- 18.14 The details and outcome of the formal case review should be recorded in formal minutes. A copy should be retained in the student's personal file for the duration of the programme.

## **19. Potential outcomes of a fitness to study case review**

- 19.1 The purpose of the panel is to determine whether or not the student's fitness to study is impaired and the appropriate outcome at the formal stage.
- 19.2 The panel's decision will be proportionate, taking into account the nature of the fitness to study concern(s), the seriousness of any risk posed, the interests of other students, and the interests of the student. The Panel will consider any mitigating and aggravating factors presented when determining the appropriate outcome.
- 19.3 The outcome agreed by the Panel will normally be an outcome not already attempted as part of the informal action taken by the College or curriculum area. The outcomes available to the Panel are:
- 19.3.1 No further action required
  - 19.3.2 To monitor the student formally for a specific period of time. An action plan will be agreed with the student detailing any steps the student will need to take and the support to be provided to the student. This action plan will normally detail different actions to any plan previously agreed as part of the informal action taken by the College or Curriculum Area. Regular review meetings will be arranged with the student and a nominated member of staff. The student should be made aware of what will happen if the action plan is breached, which will normally involve their case moving to stage 2.
  - 19.3.3 To recommend a specific academic arrangement be put in place which may include a suspension of studies. Such recommendations should be agreed by the student's College and Curriculum Area where appropriate (normally the representatives on the Panel) and the student. If the student does not agree, the case will move on to stage 2.
  - 19.3.4 To refer the case to a Fitness to Study Panel, under stage 2 of this procedure. This will be appropriate in serious cases, for example where all previous attempts to support the student have been unsuccessful, where the student has little insight regarding

their fitness to study or where there is evidence of a serious risk to the health and safety of the student or others in the learning community. This course of action would be used when it is considered that suspension, temporary exclusion, permanent exclusion or withdrawal may be the appropriate course of action or if the student has not agreed to a recommendation or action plan made under stage 1.

- 19.4 The student will be notified of the panel's decision in writing, normally within 10 working days of the case review, together with reasons for the decision. Where the panel has determined it appropriate to apply conditions, the panel will specify the applicable timescales. When setting conditions, the panel should ensure they are appropriate, proportionate, workable, carefully explained to the student, and have a clear and demonstrable outcome.
- 19.5 A record will be held on the student's personal file and will be taken into account in any future referrals through the procedure.

## **20. Process of reporting fitness to study case decisions**

- 20.1 Where appropriate, the student will be advised that the outcome of the case review will be reported to relevant third parties in accordance with paragraph 17.4 of this policy and procedure.
- 20.2 Any condition(s) recommended by the Panel will be reported to the Board of Examiners/Assessment Board.

## **21. Stage 2 – Fitness to Study Panel**

- 21.1 This stage will only be invoked in the following circumstances:
- following a temporary exclusion under section 6 of this policy; or
  - following a referral from a Case Review Panel; or
  - if the student does not agree or is not engaging with a recommendation of a Case Review Panel; or
  - if in the opinion of the NCG Academic Registrar the case is sufficiently serious and urgent to warrant an immediate referral without consideration of stage 1.
- 21.2 NCG's Academic Registrar will notify the student in writing of the nature of the concern(s) regarding their fitness to study and explain that the concern(s) will be considered under the formal stage 2 of this policy and procedure. The student will be invited to attend a panel hearing to consider the concern(s), together with any support needs the student

may have. The student will be provided with a copy of this policy and procedure.

21.3 Arrangements for a formal fitness to study panel hearing will be made by the Academic Registrar.

21.4 The student will be given a minimum of ten working days' notice of the date of the hearing. The student will be provided with:

- details of the date, time and place of the hearing;
- full details of the nature of the concern(s), including copies of any relevant documents, statements, correspondence and student records, (except where the provision of such information would be likely to breach the Data Protection Act 2018 or other legislation);
- details of the members of the panel (see paragraph 21.6 below);
- details of any other individuals who may be asked to attend the panel to give evidence;
- details of their right to be accompanied during the panel hearing;
- details of their right to submit a statement and provide relevant documentary evidence (any witness statements must be signed and dated);
- details of their right to call witnesses during the panel hearing.

21.5 All information for consideration by the panel must be received by the Academic Registrar at least five working days before the date of the panel hearing.

21.6 The panel will normally comprise of:

- An academic representative from the student's curriculum area
- a representative from the specialist student support team
- the Head of Curriculum (NCUC) or Quality Manager (all other provision)
- a representative from the relevant support services (normally not the person supporting and advising the student)
- the Equality, Diversity and Inclusion Lead
- a representative from HE Registry

- a representative of the private accommodation provider (where concerns have been raised regarding behaviour in the private accommodation).
- 21.7 Relevant witnesses may be invited to give evidence in person, if appropriate, at the discretion of the Chair of the panel.
- 21.8 Panel members must be impartial and have no direct interest or prior involvement in the matters under consideration.
- 21.9 An Officer (usually the College Senior Administrator) will be in attendance to produce a formal record of the case review.
- 21.10 The student may request to attend all or part of the panel hearing. The Panel will make a reasoned decision regarding whether the student should attend. If the student does attend, they will have the right to bring a friend or representative to the meeting.

## **22. Procedure for a fitness to study case panel hearing**

- 22.1 The following procedure will normally apply, although the fitness to study panel may, at its discretion, adjourn or depart from this procedure if it considers it to be in the interests of fairness to do so.
- 22.2 The Chair will invite all those present to introduce themselves and will explain the purpose of the case review. Where a student's companion or witnesses are not bound by a Professional Code/Rules, the Chair will reinforce that the content of the meeting is confidential.
- 22.3 The leader of the programme will outline the fitness to study concern(s), together with any evidence in support.
- 22.4 The student or their representative will have an opportunity to respond to the concern(s) and present their case.
- 22.5 The leader of the programme shall have an opportunity to call any relevant witnesses.
- 22.6 The student or their representative will have an opportunity to question any of those witnesses.
- 22.7 The student or their representative will have an opportunity to call any relevant witnesses.
- 22.8 The leader of the programme shall have an opportunity to question any of those witnesses, and the student.
- 22.9 The panel may ask questions of either party at any stage during the case review.

- 22.10 The leader of the programme will sum up, with particular reference to the implications for the student's fitness to study.
- 22.11 The student or their representative will sum up, with reference to any mitigating factors.
- 22.12 The panel may ask for specific enquiries to be undertaken, additional witnesses to be called and/or additional information to be presented. If necessary, the panel may determine the panel hearing should be adjourned for these purposes.
- 22.13 The panel will deliberate the issues and reach its determination in relation to the fitness to study concerns in private. The panel will make its findings, and reach its decision, on the balance of probabilities (standard of proof). If a consensus of decision is not achieved, the Chair will have the casting vote.
- 22.14 The details and outcome of the formal panel hearing should be recorded in formal minutes. A copy should be retained in the student's personal file for the duration of the programme.

### **23. Potential outcomes of a fitness to study panel**

- 23.1 The purpose of the panel is to determine whether or not the student's fitness to study is impaired and the appropriate outcome at the formal stage.
- 23.2 The panel's decision will be proportionate, taking into account the nature of the fitness to study concern(s), the seriousness of any risk posed, the interests of other students, and the interests of the student. The Panel will consider any mitigating and aggravating factors presented when determining the appropriate outcome.
- 23.3 If a Panel is convened following a temporary exclusion under section 6, medical evidence will be required regarding the student's fitness to study before the Panel meets.
- 23.4 The Panel will make a recommendation to NCG's Executive Director of Higher Education. Possible recommendations may include:
- A short-term exclusion to allow the student to be assessed by a medical professional, access support services both within and outside of NCG or for NCG to obtain further information. The exclusion will be reviewed within four weeks as set out below in relation to emergency temporary exclusion.
  - Suspension with conditions for a period up to twelve months. A student who is suspended from NCG will be prohibited from participating in NCG activities and may also be prohibited from entering NCG premises or have restricted rights to enter the

premises. The terms of the suspension will be notified to the student in writing, depending on the circumstances of the case. The decision to suspend a student shall be reviewed as necessary by the Panel.

- Exclusion or requirement to withdraw - if the Panel concludes, taking into account the individual circumstances of the case and any supporting medical evidence, that there is no reasonable prospect of the student re-engaging with their programme a recommendation will be made to the NCG Executive Director of Higher Education that the student is permanently excluded or required to withdraw. This recommendation should only be made in the most serious cases. The option of the student receiving a contained award will be reviewed.
- Any other action considered to be appropriate and proportionate.
- In cases where the student is studying on a programme accredited by a PSRB, the Panel will decide if this is a fitness to practise concern, and follow the related policy and procedure in these circumstances.

23.5 The student will be notified of the panel's decision in writing, normally within 10 working days of the case review, together with reasons for the decision. Where the panel has determined it appropriate to apply conditions, the panel will specify the applicable timescales. When setting conditions, the panel should ensure they are appropriate, proportionate, workable, carefully explained to the student, and have a clear and demonstrable outcome.

23.6 A record will be held on the student's personal file and will be taken into account in any future referrals through the procedure.

#### **24. Process of reporting fitness to study case decisions**

24.1 Where appropriate, the student will be advised that the outcome of the panel hearing will be reported to relevant third parties in accordance with paragraph 17.4 of this policy and procedure.

24.2 In cases where the student is studying a programme accredited by a PSRB, the Panel will also advise the student if this is deemed a fitness to practise concern and refer them to the appropriate policy and procedure.

24.2 Any condition(s) recommended by the Panel will be reported to the Board of Examiners/Assessment Board.

#### **25. Appeal process**

25.1 The student may appeal against a suspension or requirement to withdraw. A letter setting out the grounds of appeal should be addressed

to NCG's Academic Registrar and emailed to [heregistryadmin@ncgrp.co.uk](mailto:heregistryadmin@ncgrp.co.uk), to be received within 21 days of the date on which the order for suspension or the requirement to withdraw was made. The student is encouraged to seek assistance from the Students' Union Advice Service when preparing the letter of appeal.

25.2 The appeal will be heard by a committee. The membership and procedure of an appeal committee will be the same as that set out under the Student Complaints Procedure.

25.3 Appeals will be dealt with in accordance with the process set out in Appendix 1.

## **26. Office of the Independent Adjudicator for Higher Education**

26.1 A student who remains dissatisfied following the conclusion of the appeal process may apply to the OIA for reconsideration of the case under the rules of its scheme within three months of the issue of the 'Letter of Completion'. Information on the process may be obtained directly from the OIA at <http://www.oiahe.org.uk>

## **27. Disclosure and recording of information**

27.1 Personal data of students will be processed by NCG in compliance with the Data Protection Act 2018. NCG has a duty to inform relevant third parties of the nature and outcome of a proven formal fitness to study case in certain circumstances, including:

- to inform the relevant professional, statutory or regulatory body if standards require notification of outcomes and specified conditions imposed;
- to inform the Disclosure Barring Service where the statutory test regarding harm posed to children and/or vulnerable adults is met;
- to inform placement providers in relation to any placements the student may be required to undertake as part of the programme;
- to inform the immigration service within the Home Office, in case of a significant change in the circumstances of a tier 4 international student.

27.2 Unless exceptional circumstances apply, the student will be informed in the event of any such disclosures and will be reminded of their obligation to disclose any specified conditions to the professional, statutory or regulatory body, at the appropriate time.

27.3 NCG will also reserve the right to disclose details of proven fitness to study cases to any third party in the event of a reference request where

NCG considers it to be relevant. The student will be informed in the event of any such disclosure.

27.4 NCG will retain a record of proven fitness to study cases in a secure relevant filing system for a period of at least six years.

27.5 NCG will collect aggregated data about fitness to study cases and will submit an annual report to HE Quality and Standards Committee and the HE Academic Board for the purposes of quality assuring the provision of professional education and improving the provision of guidance to students about professional conduct and behaviour.

## **28 Responsibility for policy and procedure**

28.1 The HE Registry shall have responsibility for this policy and procedure.

## **29 Monitoring and review of policy and procedure**

**29.1 NCG shall review this policy and procedure on a periodic basis to ensure that it remains compliant with legal requirements and best practise and to ensure its effectiveness in achieving its objectives.**

## **30. Other relevant policies and procedures**

The following policies and procedures may also be relevant to concerns considered under this policy and procedure:

- Student Positive Behaviour policy
- HE Academic Regulations
- Student Higher Education Academic Appeals
- Student Fitness to Practise Policy

## **31. Equal Opportunities Statement**

31.1 An Equality Impact Assessment was completed on **TBC**.

31.2 This procedure may be subject to review following Equality 31.3 Impact Assessment by the Divisions.

## **32. Health and Care Professions Council (HCPC)**

Guidance on health and character [www.hpc-uk.org](http://www.hpc-uk.org)

Standards of conduct, performance and ethics for students [www.hpc-uk.org](http://www.hpc-uk.org)

## **33. Education and Training Foundation**

[www.et-foundation.co.uk/](http://www.et-foundation.co.uk/)



**34. Other relevant web-sites:**

- Disclosure and Barring Service <http://homeoffice.gov.uk>
- British Psychological Society [www.bps.org.uk](http://www.bps.org.uk)
- Office of the Independent Adjudicator for Higher Education (OIA) [www.oiahe.org.uk](http://www.oiahe.org.uk)

## **Appendix 1 - Appeal Process**

### **1. Grounds of appeal**

- 1.1 Students may appeal against the outcome of fitness to study panel decisions on the following grounds:
  - 1.1.1. that the decision reached was irrational and/or disproportionate and/or unsupported by evidence; and/or
  - 1.1.2. that there was a material and/or procedural irregularity by the fitness to study panel which has prejudiced the student's case; and/or
  - 1.1.3. additional material evidence has come to light, since the decision of the fitness to study panel, which could not have been expected to have been produced at the time of the consideration of the case.
- 1.2 The HE Registry will consider the appeal submission and determine whether there are valid grounds to proceed.

### **2. Constitution of the Fitness to Study Appeal Panel**

- 2.1. The Appeal Panel will normally consist of the following three members:
  - 2.2.1 the Chair shall be the Head of Central Student Support or nominee;
  - 2.2.2 a Head of Curriculum from a curriculum area other than that of the student's curriculum area;
  - 2.2.3 a staff member of the HE Academic Board from a curriculum area, other than the student's curriculum area.
  - 2.2.4 a member of HE Registry
- 2.2 An administrator will also attend the Appeal Panel hearing to take formal minutes of the proceedings, along with a member of the HE Registry who will act as Chair to the Appeal Panel and provide advice and guidance on the procedure.
- 2.3 Hearings of the Appeal Panel will be held as soon as it proves possible to convene a meeting of members.

### **3. Informing the student**

- 3.1 The HE Registry will arrange for an Appeal Panel to be convened and formally notify the student concerned no later than 5 working days prior to the Appeal Panel hearing. The correspondence must include:

- the date, time and venue of the Appeal Panel;
- details of the student's right to be accompanied;
- a copy of the fitness to study policy and procedure;
- details of the constitution of the Appeal Panel and any other individuals who will be present during the hearing;
- notification that the Appeal Panel hearing will proceed in their absence should they fail to provide reasonable explanation for their non-attendance.

#### **4. Procedure for the College Fitness to Study Appeal Panel**

- 4.1 It will not normally be possible for the date of the Appeal Panel to be changed, and this will only be done in respect of extenuating circumstances, for example, medical treatment. Holiday arrangements do not normally constitute a valid reason. Any requests for a change in the date of an Appeal Panel must be submitted in writing to the HE Registry, and the decision to change agreed arrangements will be taken by the Chair of the Appeal Panel. Where a decision to re-arrange an Appeal Panel has been refused the student will be informed, in writing of the refusal, and the case will be considered in the absence of the student.
- 4.2 In considering the student's appeal, the Appeal Panel may call any relevant persons to give evidence.
- 4.3 The presentation of any new documentation, on the day of the Appeal Panel, will only be accepted in extenuating circumstances with agreement of the Chair of the Appeal Panel. This may result in a suspension of proceedings to provide all parties with the opportunity to consider the new documentation.
- 4.4 Information given in writing to the HE Registry, prior to the Appeal Panel, will be communicated to the Appeal Panel. Information given orally to the Administrator may not be communicated to the Appeal Panel.
- 4.5 All participants will be expected to behave in an orderly and non-confrontational manner. If the Chair deems it necessary they may adjourn proceedings if, in their opinion, progress of the Appeal Panel is being impeded.
- 4.6 During the Appeal Panel:
- the Chair will outline the procedure of the Appeal Panel to all parties;
  - the Chair will ask the student and/or their representative to present their case in support of their appeal;

- members of the Appeal Panel may ask questions of the student and/or their representative;
  - the Chair will ask the curriculum area representative(s) to present their case;
  - members of the Appeal Panel may ask questions of the curriculum area representative(s);
  - the Chair will ask all individuals to leave the hearing;
  - The Appeal Panel will consider the evidence in private and reach a decision in accordance with this Appendix.
- 4.7 The Appeal Panel has the authority to adjourn the hearing if it requires further information and/or evidence as it deems appropriate to assist in making its decision.

## **5. Fitness to Study Appeal Panel Decision**

- 5.1 After consideration of the available evidence, the Appeal Panel may:
- reject the appeal;
  - refer the appeal, and all relevant documentation available to the Appeal Panel, back to the fitness to study panel, inviting reconsideration of the earlier decision in the light of the information now available;
  - refer the appeal, and all relevant documentation available to the Appeal Panel, back to the fitness to study panel directing the panel to assess implications and act on any consequences, within the policy and procedure; or
  - refer the appeal, and all relevant documentation available to the Appeal Panel, back to the fitness to study panel directing rectification of specified matters, assessment of implications and action on any consequences, within the procedure.
- 5.2 The Appeal Panel shall keep a record of its proceedings. The decision shall be circulated to the student, the curriculum area and also, when appropriate, to any HE Academic Board sub-committee with overall responsibility for assessment matters, so that any issues of principle or general interest may be identified and acted upon. The record shall also be available to the HE Academic Board in extenuating circumstances.

## **6. Procedure following the Decision of the Fitness to Study Appeal Panel**

- 6.1 The Chair of the fitness to study panel will be informed by the HE Registry of the decision of the Appeal Panel. The HE Registry will inform the student in writing, normally within 5 working days of the Appeal Panel.
- 6.2 Where an appeal is not upheld, the decision of the Appeal Panel shall be effective immediately.
- 6.3 Where an appeal is not upheld, the student shall be issued normally within 5 working days of the Appeal Panel, with a 'Completion of Procedures' letter in the manner prescribed by the Office of the Independent Adjudicator for Higher Education [OIA]. A student who is of the opinion that their case is unresolved may apply to the OIA for reconsideration of their case under the rules of the OIA's student complaints scheme. Information of the process may be obtained directly from the OIA at [www.oiahe.org.uk](http://www.oiahe.org.uk)
- 6.4 When it is decided that a case shall be referred back to the curriculum area:
- The HE Registry will manage the student's expectations in relation to the likely timescales for a final decision being reached.
  - The HE Registry will inform the student how their case will be presented to the reconvened fitness to study panel.
  - All papers considered by the Appeal Panel will be forwarded to the Chair of the reconvened fitness to study panel (together with the relevant record of the Appeal Panel) unless, in extenuating circumstances, the Chair of the Appeal Panel directs that it would be appropriate to withhold some of the documentation or agrees with a request by the student to withhold sensitive personal information.
  - The independent person from the curriculum area and the Chair of the re-convened fitness to study panel must not have had any previous involvement in the case.
  - Where an application is referred back to a reconvened fitness to study panel, that panel's ultimate decision shall be final.
  - The reconvened fitness to study panel shall meet as promptly as possible to consider a reference back and reach a determination in relation to the student's fitness to study. The Chair of the reconvened panel is responsible for communicating the outcome to the student and to the HE Registry in writing, normally within 5 working days of the fitness to study panel, but there is no requirement to advise the student of the reasons leading to the decision reached.

## Appendix 2

### Glossary for roles and responsibilities

College	Roles		
	Head of Curriculum	Director of Student Support	College HE Lead
Newcastle	Head of Curriculum	Head of Central Student Support Services	Head of HE
West Lancashire	Director of Curriculum and Employer Partnerships	Head of Marketing & Student Services	Award Leader Foundation Degree
Kidderminster	Assistant Principal Learner Engagement	Learner Services Manager	Head of Creative Industries, Higher Education Leader
Carlisle College	Curriculum Team Manager	Curriculum Team Manager – Essential Skills	HE Manager and ITT
Southwark College	Vice Principal	Assistant Principal	Head of Faculty HE
OLC	Director of Curriculum Studies	Director of Student Services	Head of Higher Education