



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

Date approved: September 2016  
Approved by: HE Academic Board  
Review date: **September 2019**  
Responsible Manager: Head of HE Quality and Standards  
Group Executive Lead: Group Director of Quality and Standards  
Accessible to Students/Customers: Yes

### **1. Consultation**

Consultation undertaken with:-

- Newcastle College: Yes
- West Lancashire College: Yes
- Intraining: No
- Group Services: No
- Rathbone: No
- Sixth Form College: No
- Kidderminster College: Yes

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

This policy applies to:-

- Newcastle College: Yes
- West Lancashire College: Yes
- Intraining: No
- Group Services: No
- Rathbone: No
- Sixth Form College: No
- Kidderminster College: No

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

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

**4. Policy Statement**

This policy and procedure applies to students admitted, registering for and undertaking higher education (HE) programmes of study which lead to professional registration and/or a license to practise in a professional context and/or which include practice-based training or clinical training.

**5. Linked Policies**

- Student Disciplinary/Behaviour Management Policy
- HE Academic Regulations
- Student Higher Education Academic Appeals

**6. Linked Procedures**

N/A

**7. Equal Opportunities Statement**

An Equality Impact Assessment was completed on **15/03/16**.

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

The NCG Higher Education Fitness to Practise Policy and Procedure is located as follows:

- Newcastle College on dtc: College Information: College Policies
- West Lancashire College on dtc: College Information: Policies and Procedures
- Kidderminster College: College intranet

**9. Person Responsible for the Policy**

HE Registry (Head of HE Quality and Standards)

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

### **1. Introduction and context**

- 1.1 The Institution has a responsibility to ensure that students admitted, registering for and undertaking programmes of study leading to professional qualifications are professionally suitable to do so.
- 1.2 Throughout the period from admission to graduation, NCG and its Colleges have a duty to protect the public by ensuring that each student is fit to practise at the level at which the student is studying. Assessment of the student's fitness to practise, and the student's compliance with professional codes of conduct, is an integral part of a professional programme. The College has a duty to protect the public by ensuring that students are fit for practice placements and fit to practise at the point of registration on completion of their programme.
- 1.3 Training and practising as a professional requires a sensitive, reliable and responsible approach. All students are required to demonstrate these qualities in their general attitude and behaviour towards other students, staff of the College, and in the practice areas towards clients, carers, staff, learners and the general public. Students are required to learn, accept and demonstrate the standards of responsibility and accountability increasingly demanded of practitioners in a range of services areas, for example health (including children and young people), social care, sports therapy and teaching.

### **2. Scope and purpose of the policy and procedure**

- 2.1 This policy and procedure sets out how the College will normally respond to instances where a concern is raised regarding a student's fitness to practise and the type of action that the College may take to deal with the concern and to support the student.
- 2.2 This policy and procedure applies to students admitted, registering for and undertaking higher education (HE) programmes of study which lead to professional registration and/or a license to practise in a professional context and/or which include practice-based training or clinical training.
- 2.3 A student's fitness to practise may be considered under this policy and procedure when their behaviour, health and/or professional conduct gives rise to cause for concern. This policy and procedure applies to students throughout their period of registration with the College, both on and off campus, and at all times. Examples of where fitness to practise concerns may arise include (but are not limited to) instances where a student has or is suspected as having:

- 2.3.1 failed to comply with one or more elements, or the spirit of, applicable rules/codes of professional, statutory or regulatory bodies;
- 2.3.2 engaged in behaviour which may undermine trust in the profession or bring the profession into disrepute;
- 2.3.3 engaged in behaviour which fails to demonstrate good character or appropriate standards of professionalism;
- 2.3.4 presented a risk to the student's own health, safety or wellbeing and/or that of the public, members of staff or other students;
- 2.3.5 presented a risk to the proper operation of the profession and/or a placement or work based setting;
- 2.3.6 failed to comply with programme attendance requirements specified by professional, statutory or regulatory bodies;
- 2.3.7 breached standards of acceptable conduct (whether professional or otherwise) including those set out in the College's [Student Disciplinary / Behaviour Management Policy] or by professional, statutory or regulatory bodies, including in connection with (but not limited to):
- bullying, harassment or discrimination (whether verbal or written (including online), physical, sexual or emotional);
  - aggressive, violent or threatening behaviour (including physical, verbal or written);
  - academic misconduct;
  - the commission, or suspected commission, of a criminal offence;
  - drug, alcohol or substance misuse;
  - a failure to demonstrate appropriate attitude and/or behaviour;
  - lack of commitment in the College and practice, poor time management, infrequent attendance, poor communication, failure to accept or follow advice, failure to follow health and safety requirements, inconsistent and unreliable

behaviour or failure to follow applicable rules and regulations;

- theft, dishonesty, falsification or fraud (including dishonesty outside of the professional role, falsifying signatures, documentation, qualifications, misrepresentation, and financial fraud);
- unprofessional digital identity;
- failure to treat others with dignity or respect or to observe appropriate boundaries in behaviour;
- unprofessional behaviour, attitude or demeanour;
- breach of confidentiality.

2.3.8 health, mental health, emotional or inter-personal problems including, for example, where a student:

- fails to acknowledge or manage their condition;
- fails to seek appropriate medical treatment or other support;
- shows lack of insight into the impact of their condition on study or practise;
- declines to interrupt or withdraw from the programme despite having an illness which renders them unfit to practise, either temporarily or permanently;
- fails to follow medical advice or care plans in relation to maintaining fitness to practise;
- fails to report health concerns;
- fails to recognise limits and abilities or lack of insight into health concerns.

2.4 For the purpose of this policy and procedure, Director of School relates to the role within a College which is responsible for a range of HE programmes in a school or vocational area. Where we have HE provision in NCG which is smaller the role relates to the individual responsible for entire HE provision of the College. The Head of Central Support relates to a role within a College which has

responsibility for student support, safety, wellbeing and safeguarding. Appendix 2 provides additional clarity.

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

- 3.1 The fitness to practise process seeks to balance the rights of the student with the potential risk to the health, safety and wellbeing of the public, members of staff and/or other students.
- 3.2 Individuals appointed as panel members at the formal stage of any fitness to practise 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.
- 3.3 The standard of proof applied at every stage of this policy and procedure is the balance of probabilities.
- 3.4 Advice, guidance and evidence regarding a student's fitness to practise will, where appropriate, be sought from appropriate practitioners, including health professionals and other external experts.
- 3.5 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 operate within the relevant professional code of conduct, or equivalent, thus ensuring professional suitability.
- 3.6 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 practise matters and of its obligations under the Data Protection Act 1998.
- 3.7 Students should be aware that, when dealing with fitness to practise concerns, the College may consider it appropriate to discuss and/or refer matters and/or their outcomes to third parties such as professional, statutory or regulatory bodies or placement providers and agencies such as the police, social services and the Disclosure and Barring Service. It may, in certain circumstances, be necessary for the College to do so without advance notification to the student. Where a third party or agency carries out any investigation or other process, the College may suspend or delay taking action under this policy and procedure. The College will not be bound by the outcome of any third party or agency investigation or other process.
- 3.8 Whilst the institution anticipates that most matters involving fitness to practise concerns will be dealt with under this policy and procedure, matters may arise where it is appropriate for the College to implement other College processes (such as its Student Fitness to Study Policy

and Procedure) as an alternative or in addition to this policy and procedure and the College is not prevented from doing so at any time.

- 3.9 If a student's conduct may constitute a breach of criminal law, the College may at its discretion refer the matter to the police and/or suspend or delay taking action under this policy and procedure pending the outcome of any police inquiry and/or criminal investigation/prosecution.
- 3.10 The College may take action under this policy and procedure notwithstanding a student's conviction or acquittal in criminal proceedings (the College is not bound by the outcome of any criminal prosecution although the College may in its discretion take any penalty imposed by a criminal court into consideration in determining any outcome to be imposed under this policy and procedure).
- 3.11 If students remain dissatisfied with the decision following appeal, they may, in circumstances identified in the Higher Education Act 2004, 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).

#### **4. Responsibilities of applicants and students**

- 4.1 At the beginning of their programme of study students must complete a declaration form confirming that they accept responsibility for reading, understanding and adhering to the relevant professional code of conduct, to work within the spirit of the code and meet professional standards for the duration of their studies.
- 4.2 Students must advise the College immediately if there are any changes to their DBS status (for example, if they become subject to an allegation/investigation during the programme, if they receive a caution (including accepting a caution) or conviction, etc.) or if any other matters arise which have the potential to impact on their fitness to practise having regard to the instances referred to in paragraph 2.3 of this policy and procedure. Such incidents may require investigation under this policy and procedure.
- 4.3 A failure to inform the College of any changes or matters referred to in paragraph 4.2 may require investigation under this policy and procedure.
- 4.4 Students must advise the College if there are any changes to their health which impact, or has the potential to impair, their ability to provide safe and effective practice. Failure to inform the College may require investigation under this policy and procedure.

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

5.1 Wherever possible, students should have opportunities to seek support for any matter before it becomes a fitness to practise concern. This should include support by relevant academic staff and appropriate support from services within the College.

5.2 When a fitness to practise concern is identified, the School should:

5.2.1 identify an academic member of staff, normally the personal tutor, to offer support to the student during the fitness to practise process;

5.2.2 provide pastoral support to the student (any person providing this should not be involved in investigating or hearing fitness to practise concerns);

5.2.3 advise the student about the range of services available from Learner Services which may include occupational health services, confidential counselling, disability services and the Students' Union;

5.2.4 encourage the student to discuss any problems in a supportive and confidential environment;

5.2.5 offer support and remediation, where appropriate, to the student;

5.2.6 conduct an assessment of the risk to patients, clients, learners, the public, other students and staff.

5.3 Students are strongly advised and encouraged to seek advice from Learner Support Services and the Students' Union.

5.4 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. Students may not be accompanied or represented by a lawyer.

## **6. Temporary suspension or exclusion**

6.1 Where a member of staff reasonably believes that a student covered by this policy and procedure poses a risk in relation to one or more of the areas identified below, and that temporary suspension and/or exclusion is reasonably required to remove or reduce that risk, he/she may make a recommendation to the Director of School that the

student be temporarily suspended and/or excluded. This includes where the student poses a risk to:

- his/her own health, safety and/or wellbeing and/or that of others;
- the professional activities of a placement provider or other professional organisation or to a practice situation;
- the property of the College and/or others; and/or
- the reputation of the College or a placement provider or other professional organisation, and/or its proper functioning and/or its activities.

6.2 Having considered the recommendation, the Director of School may:

- suspend the student from their placement or work-based learning setting and/or related learning activities for a specified period of time;
- suspend the student from their programme for a specified period of time; and/or
- exclude the student from the College's premises for a specified period of time.

6.3 Any such decisions made by the Director of School constitute a neutral act and are not a determination regarding any fitness to practise concerns raised.

6.4 The student will be notified in writing of the Director of School's decision, the reasons for this, details of any practical steps which may be taken to mitigate the impact of his/her decision on the student's studies and details regarding any additional steps which may be taken (for example, further action under this policy and procedure).

6.5 The Director of School will review at regular intervals whether it is reasonable for the student's suspension/exclusion to continue or whether it should be revoked or extended for a further specified period of time. The student will have the right of appeal through the Higher Education Student Appeal process.

## 7. **Stages of the procedure**

7.1 Members of staff who consider that a student's fitness to practise is impaired should inform the Director of Schools or Director of Central Support of their concerns at the earliest possible opportunity.

- 7.2 Director of School 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.
- 7.3 There are two stages for dealing with concerns regarding a student's fitness to practise under this procedure:
- Informal stage – the informal stage will normally be used in relation to minor or emerging concerns regarding a student's fitness to practise.
  - Formal stage – the formal stage will normally be used in relation to recurrent concerns and/or concerns of a more serious nature regarding a student's fitness to practise.
- 7.4 The stage at which the procedure is implemented will depend on factors such as the nature of the fitness to practise concerns, the seriousness of any risk posed and the student's response to any steps taken so far by the College to manage the situation.
- 7.5 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 his/her absence. Students who fail to attend an informal stage meeting, without good cause, may be progressed to the formal stage of this procedure.

## 8. **Investigations into fitness to practise concerns**

- 8.1 Prior to any matter being determined at a meeting or hearing under the informal or formal stages of this policy and procedure, the College may undertake any such investigations as it considers reasonable and appropriate in the circumstances.
- 8.2 A member of staff 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.
- 8.3 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.

8.4 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.

9. **Informal stage**

9.1 Minor or emerging concerns regarding a student's fitness to practise will normally be considered under the informal stage.

9.2 The programme leader will notify the student of the nature of the concern(s) regarding their fitness to practise 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 programme leader, the HE Manager (or equivalent) will attend the meeting (and will chair the meeting) and an appropriate member of staff from the placement area 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.

9.3 The student will be provided with a copy of this policy and procedure and advised of his/her right to be accompanied during the meeting and where he/she might wish to seek advice.

9.4 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.

9.5 The HE Manager (or equivalent) will determine whether or not the student's fitness to practise 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 practise policy and procedure;
- that a learning contract 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 College policy/procedure.

9.6 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 practise 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.

**10. Formal stage**

- 10.1 Recurrent concerns and/or concerns of a more serious nature regarding a student's fitness to practise will normally be considered under the formal stage.
- 10.2 The Director of School will notify the student in writing of the nature of the concern(s) regarding their fitness to practise 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 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.
- 10.3 Arrangements for a formal fitness to practise panel hearing will be made by the School.
- 10.4 The student will be given a minimum of ten working days' notice of the date of the hearing. The student will be provided with:
  - 10.4.1 details of the date, time and place of the hearing;
  - 10.4.2 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 1998 or other legislation);
  - 10.4.3 details of the members of the panel (see paragraph 10.9 below);
  - 10.4.4 details of any other individuals who may be asked to attend the hearing to give evidence;
  - 10.4.5 details of their right to be accompanied during the hearing;
  - 10.4.6 details of their right to submit a statement and provide relevant documentary evidence (any witness statements must be signed and dated);
  - 10.4.7 details of their right to call witnesses during the hearing.
- 10.5 All information for consideration by the panel must be received by the School at least five working days before the date of the panel hearing.
- 10.6 Those in attendance at the hearing, in addition to the panel members, will include:

- 10.6.1 the programme leader who will outline the fitness to practise concern(s), together with any evidence in support;
  - 10.6.2 any witnesses (including, for example, any medical or other professionals) to be called by the programme leader;
  - 10.6.3 a College administrator who will take a note of the hearing.
- 10.7 Relevant witnesses may be invited to give evidence in person, if appropriate, at the discretion of the Chair of the panel.
- 10.8 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.
- 10.9 The panel will normally comprise of:
- 10.9.1 Director of the School (Chair);
  - 10.9.2 a senior member of the School from the same profession as the student is studying for;
  - 10.9.3 a senior manager or their nominated representative from another School within the College;
  - 10.9.4 an external professional practitioner from the same profession as the student is studying for: and
  - 10.9.5 a member of HE Registry
- 10.10 Panel members must be impartial and have no direct interest or prior involvement in the matters under consideration.
- 10.11 An Officer (usually the College Senior Administrator) will be in attendance to produce a formal record of the hearing.
- 10.12 The student will normally be expected to attend the panel hearing. If the student does not attend, without good cause, the panel may proceed in the student's absence. The panel will consider any representations made by or on behalf of the student (in absentia) at the appropriate point in the meeting.

## 11. **Procedure for a fitness to practise panel hearing**

- 11.1 The following procedure will normally apply, although the fitness to practise 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.

- 11.1.1 The Chair will invite all those present to introduce themselves and will explain the purpose of the hearing. 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.
- 11.1.2 The programme leader will outline the fitness to practise concern(s), together with any evidence in support.
- 11.1.3 The student or their representative will have an opportunity to respond to the concern(s) and present their case.
- 11.1.4 The programme leader shall have an opportunity to call any relevant witnesses.
- 11.1.5 The student or their representative will have an opportunity to question any of those witnesses.
- 11.1.6 The student or their representative will have an opportunity to call any relevant witnesses.
- 11.1.7 The programme leader shall have an opportunity to question any of those witnesses, and the student.
- 11.1.8 The panel may ask questions of either party at any stage during the hearing.
- 11.1.9 The programme leader will sum up, with particular reference to the implications for the student's fitness to practise.
- 11.1.10 The student or their representative will sum up, with reference to any mitigating factors.
- 11.2 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 that the hearing should be adjourned for these purposes.
- 11.3 The panel will deliberate the issues and reach its determination in relation to the fitness to practise concerns in private. The panel will make its findings, and reach its decision, on the balance of probabilities. If a consensus of decision is not achieved, the Chair will have the casting vote.
- 11.4 The details and outcome of the formal hearing should be recorded in formal minutes. A copy should be retained in the student's personal file for the duration of the programme.

12. **Potential outcomes of a fitness to practise panel**

- 12.1 The purpose of the panel is to determine whether or not the student's fitness to practise is impaired and the appropriate outcome at the formal stage.
- 12.2 The panel's decision will be proportionate taking into account the nature of the fitness to practise concern(s), the seriousness of any risk posed, the interests of learners/patients/clients and the public, and the interests of the student. The Panel will consider any mitigating factors presented when determining the appropriate outcome.
- 12.3 The potential outcomes of the hearing include (but are not limited to) one or more of the following:
- 12.3.1 that no further action be taken under the fitness to practise policy and procedure;
  - 12.3.2 that the matter be considered further under another College policy/procedure;
  - 12.3.3 that additional support be implemented and/or reasonable adjustments be made for the student;
  - 12.3.4 that a learning contract be drawn up and agreed with the student;
  - 12.3.5 that the student's fitness to practise is not impaired to a point requiring any conditions and the student will receive a written warning, with a record on their personal file;
  - 12.3.6 that the student is permitted to continue on the programme subject to conditions which relate to additional monitoring/supervision, additional testing of fitness to practise, and/or successful engagement with a learning contract and/or treatment for a health condition. A record will be held on the personal file and in any future referrals through the procedure these will be taken into account;
  - 12.3.7 that a recommendation be made to the Principal/or equivalent that the student's studies on the programme be interrupted for a specific period of time, followed by a further assessment of fitness to practise and/or conditions. A record will be held on the personal file and in any future referrals through the procedure these will be taken into account;

- 12.3.8 that a recommendation be made to the Principal that the student's studies on the programme be discontinued on the basis that the student's behaviour, health and/or professional conduct is considered to be fundamentally incompatible with continuing on the programme.
- 12.4 The student will be notified of the panel's decision in writing, normally within 10 working days of the hearing, 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 and measurable.
- 12.5 A record will be held on the personal file and will be taken into account in any future referrals through the procedure.
- 12.6 **Process of reporting fitness to practise case decisions**
- 12.7 Where appropriate, the student will be advised that the outcome of the hearing will be reported to relevant third parties in accordance with paragraph 12.3 of this policy and procedure.
- 12.8 Any condition(s) recommended by the Panel will be reported to the Board of Examiners/Assessment Board.
13. **Appeal process**
- 13.1 Students may appeal against the outcome of the formal stage of this procedure by writing to the HE Registry within 20 working days of written notification of the fitness to practise panel decision, stating the ground(s) of appeal (the potential grounds of appeal are referred to in Appendix 1).
- 13.2 Appeals will be dealt with in accordance with the process set out in Appendix 1.
14. **Office of the Independent Adjudicator for Higher Education**
- 14.1 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>
15. **Disclosure and recording of information**
- 15.1 Personal data of students will be processed by the College in compliance with the Data Protection Act 1998. The College has a duty to inform relevant third parties of the nature and outcome of a proven formal fitness to practise case in certain circumstances, including:

- 15.1.1 to inform the relevant professional, statutory or regulatory body if standards require notification of outcomes and specified conditions imposed;
  - 15.1.2 to inform the Disclosure Barring Service where the statutory test regarding harm posed to children and/or vulnerable adults is met;
  - 15.1.3 to inform placement providers in relation to any placements the student may be required to undertake as part of the programme;
  - 15.1.4 to inform the immigration service within the Home Office, in case of a significant change in the circumstances of a tier 4 international student.
- 15.2 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.
- 15.3 The College will also reserve the right to disclose details of proven fitness to practise cases to any third party in the event of a reference request where the College considers it to be relevant. The student will be informed in the event of any such disclosure.
- 15.4 The College will retain a record of proven fitness to practise cases in a secure relevant filing system for a period of at least six years.
- 15.5 The College will collect aggregated data about fitness to practise 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.
16. **Responsibility for policy and procedure**
- 16.1 The HE Registry shall have responsibility for this policy and procedure.
17. **Monitoring and review of policy and procedure**
- 17.1 **The College 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.**

18. **Other relevant policies and procedures**
- 18.1 The following policies and procedures may also be relevant to concerns considered under this policy and procedure:
- Student Disciplinary/Behaviour Management Policy
  - HE Academic Regulations
19. **Equal Opportunities Statement**
- 19.1 An Equality Impact Assessment was completed on **15/03/16**. This procedure may be subject to review following Equality Impact Assessment by the Divisions.
20. **Guidance provided by Statutory/ Regulatory Bodies on student fitness to practise**
- 20.1 **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)
- 20.2 **Education and Training Foundation**
- [www.et-foundation.co.uk/](http://www.et-foundation.co.uk/)
- 20.3 **Sports Therapy**
- 20.3.1 British Association of Sport Rehabilitation Graduates  
<http://basrat.org/home/about>
- 20.3.2 Society of Sports Therapist [www.society-of-sports-therapists.org/index.php](http://www.society-of-sports-therapists.org/index.php)
- 20.4 **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 practise 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 practise 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 practise 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 Practise Appeal Panel**
  - 2.1 The Appeal Panel will normally consist of the following three members:
    - 2.1.1 the Chair shall be the Director of Central Support or nominee;
    - 2.1.2 a Director from a School other than the student's School;
    - 2.1.3 a staff member of the HE Academic Board from a School, other than the student's School.
    - 2.1.4 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 Clerk 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:
- 3.1.1 the date, time and venue of the Appeal Panel;
  - 3.1.2 details of the student's right to be accompanied;
  - 3.1.3 a copy of the fitness to practise policy and procedure;
  - 3.1.4 details of the constitution of the Appeal Panel and any other individuals who will be present during the hearing;
  - 3.1.5 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 Practise 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 a 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:
- 4.6.1 the Chair will outline the procedure of the Appeal Panel to all parties;
  - 4.6.2 the Chair will ask the student and/or their representative to present their case in support of their appeal;
  - 4.6.3 members of the Appeal Panel may ask questions of the student and/or their representative;
  - 4.6.4 the Chair will ask the School representative(s) to present their case;
  - 4.6.5 members of the Appeal Panel may ask questions of the School representative(s);
  - 4.6.6 the Chair will ask all individuals to leave the hearing;
  - 4.6.7 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 Practise Appeal Panel Decision**

- 5.1 After consideration of the available evidence, the Appeal Panel may:
- 5.1.1 reject the appeal;
  - 5.1.2 refer the appeal, and all relevant documentation available to the Appeal Panel, back to the fitness to practise panel, inviting reconsideration of the earlier decision in the light of the information now available;
  - 5.1.3 refer the appeal, and all relevant documentation available to the Appeal Panel, back to the fitness to practise panel directing the panel to assess implications and act on any consequences, within the policy and procedure; or
  - 5.1.4 refer the appeal, and all relevant documentation available to the Appeal Panel, back to the fitness to practise 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 School 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 Practise Appeal Panel**

6.1 The Chair of the fitness to practise 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 School:

6.4.1 The HE Registry will manage the student's expectations in relation to the likely timescales for a final decision being reached.

6.4.2 The HE Registry will inform the student how their case will be presented to the reconvened fitness to practise panel.

6.4.3 All papers considered by the Appeal Panel will be forwarded to the Chair of the reconvened fitness to practise 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.

6.4.4 The independent person from the School and the Chair of the re-convened fitness to practise panel must not have had any previous involvement in the case.

6.4.5 Where an application is referred back to a reconvened fitness to practise panel, that panel's ultimate decision shall be final.

6.4.6 The reconvened fitness to practise panel shall meet as promptly as possible to consider a reference back and reach a determination in relation to the student's fitness to practise.

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 practise 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  |                                      |  |
|-----------------|--|--------------------------------------|--|
|                 | Director of School                               | Director of Central Support          | HE Manager   |
| Newcastle       | Director of School                               | Director of Central Support          | HE Development Manager   |
| West Lancashire | Director of Curriculum and Employer Partnerships | Head of Marketing & Student Services | Award Leader Foundation Degree                                 |
| Kidderminster   | Director of Learning                             | Learner Services Manager             | Head of Creative Industries, Higher Education and School Links |