The City College
WHERE STUDENTS COME FIRST

Fitness to Practise Procedure

Document Summary

Date of approval**:** 18/11/19

Approved by: Academic Board

Revision date: 08/10/2021

Next revision date: 31/08/2022

1: Introduction

1.1 The City College recognises that academic awards may result in a professionally recognised qualification and that academic success alone may not meet all of the professional requirements, which might include, for example, physical health, mental health, moral or behaviour matters. In confirming appropriate academic qualifications or admission to a professional body and/or statutory registration, The City College must be satisfied that the student will be a safe and suitable entrant to the given profession.

1.2 Students accepting a place at The City College to study on any relevant programme (see 1.4 below) are required to comply with all academic regulations and College policies. These regulations and procedures apply equally away from College sites and especially in the work settings where a student may be based.

1.3 Students who, after enrolment and registration onto a higher education programme, do not comply with the relevant regulations and procedures and where their behaviour or issues have not improved following the application of College policies and procedures, and that behaviour is considered to be damaging or dangerous to service users, other students, staff of the College and its partners or which creates an unacceptable risk to themselves or others, will be subject to the Fitness to Practise procedure.

1.4 The Fitness to Practise procedure exists to ensure students adhere to strict professional standards on specific professional programmes at the College. The following programmes are subject to the Fitness to Practise procedure:

- Diploma in Education and Training
- HNC/D Healthcare Practise
- HNC/D Social and Community Work
- Licentiate in Acupuncture
- Licentiate in Tui na.

1.5 Where references are made to “working days” in this policy, these are considered to be Monday to Friday (inclusive).

2: Fitness to practise

2.1 In the case of college programmes that are recognised, accredited or validated by a professional body, the college’s expectation is that student practice should, in addition to UK law, follow the norms of the regulatory body/ bodies which govern the post-graduation practice, and that students must not engage in any behaviour which renders them to be judged unfit to be admitted to that profession.

2.2 Concerns about a student's fitness to practise may be raised from any source, including any member of staff, student, placement partner/ employer, member of the public, or other agencies such as the Police or Social Services. Concerns about fitness to practise may involve a range of actions or omissions relating to professional conduct or professional suitability but may include any of the following:

- Any circumstances which may call into question a student's fitness to be admitted to and to Practise their profession
- Offences against or exploiting the vulnerable, including children, the elderly and the mentally incapacitated
- Chronic drug or alcohol misuse /abuse
- Acting in a violent manner on or away from College premises
- Conviction of a relevant criminal offence
- Intimidation of fellow students, staff, patients or clients
- Failure to rectify behaviour that has been subject to any disciplinary actions under the College policies and procedures
- Repeated inappropriate behaviour towards others
- Falsification of records
- Serious academic malpractice in examinations or assessments
- Severe or relapsing mental illness
- Being a carrier of a serious communicable disease
- Any circumstances which may breach the professional code of Practise applicable to the profession which the programme qualifies the student to enter upon graduation.

2.3 The list in 2.2 above is not exhaustive, and the examples given do not necessarily mean that a student would be withdrawn. However, this would be an option if a student was found not fit to practise by a Panel formed as a consequence of any of the above.

3: Confidentiality

3.1 It must be borne in mind that an allegation raising concerns about fitness to practise is a serious and potentially defamatory one. Consequently, it is essential that the proceedings should be conducted on a basis of strict confidentiality.

4: Initiating the Procedure and Temporary Exclusion

4.1 Where an allegation is raised about a student's fitness to practise and immediate action is required to safeguard all relevant parties, the Programme Leader or equivalent may request one of the following:

- That the student be temporarily excluded from study and/ or placement with immediate effect for up to five working days from the receipt of the allegation

- The commencement of a placement is delayed for up to five working days from the receipt of the allegation.

4.2 Such a request must be made in writing to the Managing Director or Director of Student Records, who will make the decision. Action taken by the College shall be without prejudice to the outcome of any enquiry. If the student is also an employee in the workplace, then the College will follow the action taken by the employer instead.

4.3 Written reasons for the decision shall be recorded and notified to the student together with any conditions that need to be met before the exclusion can be lifted. Temporary exclusion is a neutral act and not a sanction and does not imply that any decisions have been made about the student or the case. It will be for no longer than the College deems necessary to complete any investigations and/ or hold a Hearing if required. Temporary exclusions may be extended by the Managing Director or Director of Student Records if necessary to take into account any developments or representations made by the student. The student will be kept informed of all such decisions being made. Further details on temporary exclusion are given in 15 below.

4.4 In the situation where the support of a designated signatory is required for a student to register with a professional or regulatory body, and a case arises following a student's graduation and where the alleged incident took place during the student's period of study, the Fitness to Practise Procedure will be followed, and a Fitness to Practise Panel will make a recommendation as to whether the required support can be given.

4.5 Breach of an exclusion notice, as noted in 4.1 below, will also be regarded as a breach of the Fitness to Practise Procedure.

5: Next steps

5.1 Once a written allegation has been received, the Programme Leader in consultation with the Managing Director or Director of Student Records shall:

- Take such immediate action as is deemed appropriate in the circumstances to safeguard all relevant parties, but without prejudice to the outcome of the enquiry. This may include a decision to request a temporary exclusion as stated in 4.1 and 4.4 above and 15 below.
- Normally within five working days of receipt of the allegation confirm in writing the nature of the allegation made, the action taken in the previous bullet point, and the procedures for dealing with the allegation
- Normally within fifteen working days of the receipt of the allegation either:
    - decide no further action is required
    - appoint an Investigating Officer.

6: The investigation

6.1 The Investigating Officer shall impartially assemble the evidence relevant to the case in a timely manner. Appropriate methods for gathering evidence will normally include:

- Collecting all relevant papers, reports and documents
- Interviewing the student concerned, who may be accompanied by a 'Friend' of their choice (the role of the 'Friend' is outlined in section 14 below)
- Interviews with relevant College staff, students, professional or practise partner colleagues/ employers
- Obtaining a written professional opinion on the effect of the student's behaviour or state of health/ well-being on their fitness to practise.

6.2 The Investigating Officer shall prepare a written report for the Fitness to Practise Panel, normally within 20 working days of the case being referred to them. The report shall not pass judgement nor recommend a particular course of action.

7: The Fitness to Practise Panel membership

7.1 The Fitness to Practise Panel will normally meet within 15 working days of the investigation report being published. The membership of the Fitness to Practise Panel will be:

- The Managing Director or Director of Student Records as Chair (whoever has not been involved in the matter to date)
- Two members of the academic staff, one of which must be from a relevant subject discipline
- A representative of the profession concerned (where possible, in the event of a representative not being available, then advice will be sought from the relevant professional body, and this will be submitted as evidence to the panel).

7.2 A member of the admin team will attend as Secretary to the Panel to take notes and manage the documents required. The Secretary will have supplied copies of all the documents to be used to the Panel and the student concerned at least 10 working days before the Panel Hearing.

8: Before the Fitness to Practise Panel Hearing

8.1 Any party proposing to call witnesses to give evidence at the Hearing must notify the Secretary of their details not less than 3 working days before the date of the Hearing. The calling of witnesses will be limited to those whose identities have been notified to the Secretary.

8.2 The student will have the opportunity to write to the Secretary prior to the Hearing admitting or disputing the grounds and enclosing any documents or making any representations they may wish to be considered by the Panel.

8.3 The student must also indicate whether or not they will be attending the Hearing.

8.4 The Chair of the Fitness to Practise Panel will have discretion to delay the date of the Hearing at the request of the student and / or relevant Programme Leader.

8.5 If the student does not appear at the hearing without reasonable explanation in reasonable time the Panel may proceed in the absence of the student (see 11.3 below).

8.6 The student may be accompanied by a 'Friend' appearing before the Panel.

9: The Fitness to Practise Panel Hearing proceedings

9.1 The Fitness to Practise Panel will operate on the principle of 'the balance of probability' rather than that of 'beyond reasonable doubt'.

9.2 Where a vote is required the majority decision of the Panel members will be taken. In the case of an equally split decision the outcome should fall in the student's favour.

9.3 The conduct of the Fitness to Practise Panel is at the discretion of the Chair but shall normally proceed as follows:

- The members of the Panel have a preliminary discussion in private
- The student, the student's 'Friend' and the Programme Leader enter the room and the Chair introduces all those present
- The Chair checks that the student has received details of the concern and any supporting documentation
- The Chair explains the order of proceedings to the student
- The relevant Programme Leader will present the case and call witnesses as required
- The student will be entitled to question the Programme Leader and any of their witnesses
- The student will be given the opportunity to present their case (including any mitigation) and to call on any witnesses as required
- The Programme Leader will be entitled to question the student and any of their witnesses
- The Panel will be entitled to question the Programme Leader, the student, and any witnesses as required
- Exceptionally the Panel has the power to call witnesses who shall only attend to present their evidence and to answer questions that the Panel or other party may put to them through the Chair. Once their evidence has been heard and there are no more questions, witnesses shall be required to withdraw
- The Chair invites the Programme Leader to make any final response
- The Chair invites the student to make any final response

- The student, the student's 'Friend' and the Programme Leader are then asked to leave the room. The Panel then deliberates alone and comes to a decision. If the Panel is unable to reach a decision, then the Panel may be adjourned
- If the Panel finds on the balance of probability that the case is proven, they determine any further action or sanction and clarify the reasons for their decision.

9.4 The Panel shall have the power to seek such other evidence as it deems necessary. The Panel may be adjourned to allow for such evidence to be gathered.

10: The Panel's decision

10.1 If the Panel decides the fitness to practise concern is proven then it shall have the power to do any one or combination of the following:

- Permit the student to continue on the programme with no further action required
- Permit the student to continue on the programme with adjustments
- Issue a formal warning
- Discontinue the placement and institute arrangements for locating an alternative placement where possible (If the student is also an employee in the workplace then the College will follow the action taken by the employer instead)
- Require the student to temporarily withdraw from the college (total or partial eg. from particular activities, services or locations) with return subject to conditions
- Require the student to withdraw from the college permanently because they are unfit to practice
- Impose such other action as it considers appropriate, provided that no such action requires or implies a concession or exemption under the assessment rules or programme regulations.

11: After the Hearing

11.1 The decision made by the Fitness to Practise Panel will be notified to the student within five working days of the meeting. The student will be advised of the right to appeal against the decision in accordance with the appeal section in 12 below.

11.2 Whilst it is envisaged that such cases will be exceptional, the College reserves the right, at any stage and level of this procedure, to vary the process it follows in the interests of fairness and/or health and safety.

11.3 Should a student be unwilling or unable to take part at any stage of the procedure or to attend a meeting, the College may nonetheless follow the procedure where it is reasonable to do so. In addition, the College will consider any request from the student to proceed with a meeting in their absence on the basis of written reports and/ or a written statement from the student. In the absence of the student, both they – and any concerned parties – will be

informed that the meeting is going ahead, as well as told about the outcome and any decision taken.

11.4 If the fitness to practise case against the student is found proven, the Panel shall consider whether a report should be made to the relevant professional or regulatory body and/ or the student's employer, as applicable. The student will be informed in writing whether such a report will be made. Due regard will be given to the General Data Protection Regulation 2018 and its Privacy Policy (available on Sharepoint and the website).

12: Appeals against the decision of the Panel (the final internal stage)

12.1 A student may appeal against the decision of a Fitness to Practise Panel to the Managing Director or Director of Student Records (whoever has not been involved in the case to date) in writing, stating the grounds of the appeal and attaching all supporting evidence. Students must do so within 10 working days of the letter confirming the Panel's decision.

12.2 The grounds for the appeal shall be one or more of the following on which a student may appeal are that:

- There is evidence now available, which for good reason was not available to the Fitness to Practise Panel that might have materially affected the outcome
- The College did not follow the Fitness to Practise Procedure in a way which disadvantaged the student's case
- There is evidence of prejudice and/or bias during the procedures
- on the balance of probabilities, the facts of the case do not justify the decision that was reached
- The action applied by the Fitness to Practise Panel was disproportionate with regard to all the circumstances of the case, or was not permitted under the Fitness to Practise Procedure.

12.3 The College will endeavour to complete the appeal proceedings within 20 working days from receipt of the appeal form and supporting evidence. During this time the student must meet all deadlines set. Occasionally there will be circumstances when, for good reason, the College will need to extend the timeframe. Where this is the case the student will be notified and kept regularly informed of progress.

12.4 In the event of an appeal, the Managing Director or Director of Student Records dealing with the appeal and a senior member of the academic staff not involved in the case to date, will decide whether the grounds for the appeal are covered by the provisions in 12.2 above and warrant further consideration by a Fitness to Practise Appeals Panel. If they agree that there are no grounds for further consideration of the appeal, the Managing Director or Director of Student Records will inform the student in writing giving the reasons for that decision.

12.5 If the Managing Director or Director of Student Records dealing with the appeal decide that the appeal does warrant further consideration, the Managing Director or Director of Student Records dealing with the appeal will refer the case to a Fitness to Practise Appeals Panel which shall normally be comprised of:

- The Managing Director or Director of Student Records dealing with the appeal as Chair
- one member of the academic staff from a relevant discipline (who has not been involved in the case to date)
- one senior practising member of the relevant profession who is from outside the College and who has not been associated with teaching the student.

12.6 A member of the admin team will attend as Secretary to the Panel to take notes and manage the documents required. The Secretary will provide the Panel with all the documents relating to the original Hearing, together with the written statement and any other evidence submitted by the student setting out the grounds for the appeal.

12.7 The Appeals Panel shall not proceed by way of a re-Hearing but shall have the power to require the presentation of such further evidence as it deems necessary. The proceedings of the Appeal Hearing will be the same as in the original Hearing (see 9.3 above).

12.8 The Appeals Panel shall have the same powers as the Fitness to Practise Panel and may confirm the decision of the Fitness to Practise Panel or substitute another decision as it considers appropriate within the powers identified in 10.1 above. If new issues have arisen, the Appeals Panel may also decide that a new Fitness to Practise Panel Hearing is required.

12.9 When the Appeals Panel has reached its decision, the student concerned will be informed in writing within five working days of the decision being made.

12.10 If the appeal is not upheld, the Appeals Panel shall decide whether a report should be made to the relevant professional or regulatory body and/ or the student's employer, if applicable. The student will be informed in writing whether such a report will be made.

12.11 The decision of the Appeals Panel is final and completes the College's internal Fitness to Practise Procedure.

13: External review by the Office of the Independent Adjudicator (OIA)

13.1 Once the appeal stage has been completed and the College's internal procedures for dealing with complaints and appeals are therefore exhausted, the College will automatically issue a Completion of Procedures (COP) Letter. A COP Letter confirms the decision made and that the student has reached the end of the College's internal processes.

Please note that the OIA are independent and are not a further stage of The City Colleges internal procedures. The City College is a member of the independent scheme for the review

of student complaints run by the Office of the Independent Adjudicator for Higher Education (OIA). If the complainant is unhappy with the outcome of their complaint, they may be able to apply to the OIA for a review of their complaint provided their complaint is eligible under the OIA's Rules. More information about making a complaint to the OIA, the complaints it can and can't look at and what it can do to put things right if something goes wrong can be found here: https://oiahe.org.uk/students

13.2 If the student's appeal is not upheld and the student does not agree with this decision, the student can apply to the OIA to have the decision reviewed. The COP letter is normally needed when applying to the OIA for a review. The student normally needs to have completed the internal complaint procedures before complaining to the OIA. The City College will send out a Completion of Procedures (COP) letter when there are no further internal stages. More information about Completion of Procedures Letters and when you can expect to receive one can be found here: http://www.oiahe.org.uk/providers/completion-of-procedures-letters

13.3 Applications for review must be submitted to the OIA within 12 months of a COP Letter being issued. The OIA may be contacted by ringing 0118 959 9813. Details of the OIA may be found at http://www.oiahe.org.uk/students.

13.4 If the matter is concluded before the appeal stage, for example because the student does not wish to appeal, the student may request a COP Letter if they want one. There is a deadline of one month for the student to make such a request, beginning when the relevant College decision was made.

13.5 If the student makes a request after the deadline has passed, the College will issue a COP Letter containing the date upon which the original Fitness to Practise Panel Hearing decision or the Appeal Panel decision was reached. The time for bringing the matter to the OIA will normally run from that date, rather than the date of the COP Letter.

14: The Role of the 'Friend'

14.1 The 'Friend' may be an official Student Representative or another member of the College community and is there to provide moral support and to support the student when the student is asking or answering questions during the meetings and/ or Hearings. The 'Friend' may not be a lawyer or legally qualified adviser or representative. The 'Friend' may also take notes of the meetings for the student. While students are normally expected to speak for themselves, the 'Friend' may speak with the agreement of the Chair of the Panel. In the event that the student is unable to continue the meeting in the absence of the 'Friend', the meeting will continue in the absence of the student, based on the oral evidence heard to date and the written documentation.

15: Temporary Exclusions

15.1 The Managing Director or Director of Student Records may exclude temporarily a student pending the outcome of an investigation under the Fitness to Practise Procedure or a meeting of a Fitness to Practise Panel, or a meeting of the Fitness to Practise Appeals Panel.

15.2 The decision to impose a temporary exclusion is a neutral act and is without prejudice to the outcome of any enquiry under the Fitness to Practise Procedure. If the student is also an employee in the workplace then the College will follow the action taken by the employer instead.

15.3 The power to exclude temporarily under this provision exists to protect service users and other members of the public, service providers, the members of the College community in general or a particular member or members, including the student in question. The power shall be used only where the Managing Director or Director of Student Records is of the opinion that it is necessary to take such action for reasons of safeguarding against risk. Assessment of risk will take account of both the likelihood of harm arising and the potential level of harm. Action may be considered necessary in situations where the risk of harm occurring is low, but the consequences are potentially serious.

15.4 Written reasons for the decision shall be recorded and notified to the student together with any conditions that need to be met before the exclusion can be lifted. Temporary exclusion is a neutral act and not a sanction and does not imply that any decisions have been made about the student or the case. It will be for no longer than the College deems necessary to complete any investigations and/ or hold a Hearing if required. Temporary exclusions may be extended by the Managing Director or Director of Student Records if necessary to take into account any developments or representations made by the student. The student will be kept informed of all such decisions being made.

15.5 The Managing Director or Director of Student Records may temporarily exclude a student with immediate effect. If a student has been temporarily excluded, they may make representations in person or in writing to the Managing Director or Director of Student Records. The student must do so within five working days of the date of the letter notifying them of the temporary exclusion or as soon as possible afterwards, provided there is good reason why they were prevented from meeting the deadline. If the student attends in person, they may take be accompanied by a 'Friend' if they wish (see 14 above).

15.6 A decision to temporarily exclude a student will be kept under review. Any significant changes in the circumstances of the student's case will be reported to the Managing Director or Director of Student Records. Should an investigation under the Fitness to Practise Procedure, or the holding of a Fitness to Practise Panel meeting, be delayed for whatever reason, and where the exclusion has continued for at least four weeks, the student may request a review of the decision. A review will be conducted by Managing Director or Director of Student Records who did not make the decision to exclude and the student will be given the opportunity to submit written representations and to make representations in person.

Should the exclusion continue after the review, it will be reviewed again every four weeks, until a Fitness to Practise Panel meeting is held.