

Fitness to Study Procedure

Document Summary

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1: Introduction

1.1 The City College 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 and academic achievement. Fitness to study relates to an individual's capacity to participate fully as a student in relation to academic studies and life generally at college.

1.2 The College wishes to ensure that all students who experience health, or mental health, difficulties are treated fairly, sensitively and with respect and are offered support and guidance in order for them to engage and continue with their studies. Furthermore, the College has a responsibility under the Equality Act (2010) not to discriminate against disabled students, including those with mental health problems, and to make reasonable adjustments to ensure disabled students are not placed at a significant disadvantage. However, the College has a duty of care to all members of its community, and there is a need for an appropriate, timely response when the visible signs of illness, mental health difficulties or psychological disorders are having a disturbing and negative impact on the functioning of the individual and on the wellbeing of those around them.

1.3 It is important to acknowledge that the vast majority of students with health, or mental health, problems will not present any disruption to others. However, this policy gives guidance as to how the College should respond on the rare occasion where a student's health problems and behaviour impacts on others around them, or where they present a risk to themselves or others.

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

2. Purpose

2.1 The purpose of this policy is to:

- provide a co-ordinated and managed response to situations where a student's health, mental health or behaviour is causing concern, because it is disruptive, aggressive and/or they appear to be at serious risk to themselves or others and where it is not considered appropriate to apply College disciplinary procedures because the root of the problem appears to be health or mental health-related
- enable staff to identify the limits to the support they can provide and the appropriateness of referring the student on to other agencies, either internal or external. Any support provided by college staff cannot be expected to replace the professional care and support, which are the responsibility of the student's GP and other statutory agencies.

3: Confidentiality

3.1 Issues regarding health and behaviour may be regarded as sensitive and personal. Consequently, it is essential that any proceedings be conducted on the basis of strict confidentiality.

4. Fitness to Study

4.1 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:

- Where a student is affected by medical conditions that require long periods of absence and treatment
- Where there are doubts from staff regarding a student's fitness to study due to a pre-existing medical condition
- Where participation in a programme related activity or assessment would jeopardise the long-term health and wellbeing of a student due to a pre-existing medical condition
- When there is a disruption to teaching, learning and support of other students or where unreasonable demands are being made on staff or students due to deterioration in the physical or mental health of a student
- Where there is a potential risk to a student or others due to deterioration in the student's physical or mental health
- Behaviour which would usually be dealt with as a disciplinary matter, which may be known to be or suspected to be the result of an underlying physical or mental health difficulty
- The student's academic performance or personal conduct is not acceptable and may be known to be or suspected to be the result of an underlying physical or mental health problem.

4.2 This policy is intended for use where the situation is deemed to be serious and has not been resolved via the availability of the existing academic and student support resources within the College.

5: Temporary Exclusion of the student

5.1 Where a student's behaviour continues to cause serious concerns because of a health or mental health problem and the College's duty of care to others needs to be considered, it may be necessary to temporarily exclude a student from their studies while appropriate means of addressing the situation are considered. The decision to exclude a student would be made by the Managing Director or Director of Student Records dealing with the matter.

5.2 The decision to temporarily exclude will be considered if a student's behaviour is impacting adversely on others around them and that either support in dealing with this has been offered and declined, or that support has been put in place but behaviour which is unacceptable has

continued and/or is beyond the professional capacity of the College to reasonably manage. This includes suicidal or self-harming behaviour.

5.3 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.

6: Emerging Concerns (Stage 1)

6.1 Concerns at this stage may include a deterioration in health, appearance, behaviour, attendance, or the ability to meet deadlines, succeed academically or participate in normal student life.

6.2 Where a student's behaviour or wellbeing is causing on-going concern, but not presenting any immediate crisis, the student themselves should be approached and any concerns discussed with them directly. Guidance can be sought, on a confidential basis, from the Student Welfare Officer (SWO), as to who should approach the student, how best to do this and to get information regarding sources of further help.

6.3 This approach, where possible, should be made by a member of staff who knows the student well. If this is not possible, then the SWO will contact the student. The nature of the concerns should be clearly and honestly identified to the student and they should be encouraged to discuss the issues (it is possible that they will not have realised the impact of his/her actions). If appropriate, information should be provided about sources of support within, and external to, the College that the student can access.

6.4 It should be agreed with the student and recorded, by way of a written plan, what behaviours need to change and what actions are expected of the student, e.g. make an appointment with their GP. This plan should contain a date for review and be sent to the student, Programme Leader and Managing Director.

6.5 It is likely that the student will respond positively and where appropriate, access the available support or modify behaviour.

7: Continuing Concerns or sudden deterioration (Stage 2)

7.1 Stage 2 will be initiated where concerns are continuing, or the review date agreed at the Stage 1 has passed, and the student is still experiencing difficulties. It may also be initiated

when there is a significant initial concern which is felt to be too serious to be handled informally at Stage 1, or if there is a sudden deterioration shown by the student.

7.2 Should the student be unable to respond positively, and conduct continues to cause concern, the SWO should be informed and will coordinate and monitor a response to the situation. This response might involve arranging to see the student, liaising with outside agencies who are already involved (i.e., probation officer/social worker), or calling a 'case conference' involving concerned parties where a cohesive response can be developed. The aim, wherever possible, being to ensure that a student is able to continue with their studies.

7.3 It may be deemed necessary to seek the intervention of the student's GP or community health services in order that responsibility can be shared.

7.4 If appropriate, support will also be offered by the SWO to those students and colleagues who may be affected by the situation. A central file will be kept by the SWO of all referrals, action and developments in the case, and relevant colleagues will be updated on a 'need to know' basis and in keeping with the General Data Protection Regulation 2018 and the College's Privacy Policy.

8: The Fitness to Study Panel for serious, persistent and/or critical concerns (Stage 3)

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

8.2 The most serious level of concern can be reached either through progression from Stage 1 and Stage 2 or directly if the concerns identified are serious, persistent or have become critical i.e. the student's behaviour is putting health and safety, well-being or academic progression of self or others at risk. Where a student presents an immediate risk to themselves or others, emergency services should be called by the SWO, Managing Director, Director of Studies, or their nominee.

8.3 Following a serious or critical incident, the SWO must be informed as soon as possible if the situation is not already known. The SWO will be responsible for following up on the incident, contacting the student if appropriate and informing concerned others. The SWO and Managing Director or Director of Student Records, acting as Chair, will liaise to arrange a Hearing with the Fitness to Study Panel. The SWO and Managing Director must consider in advance whether others should also be invited to attend based on their ability to best provide expert advice or those who need to be there because of their relationship with the student

8.4 The Panel may include relevant members of academic staff and/ or support staff. The membership of the Panel will be at the discretion of the Chair as is most appropriate considering the circumstances. A member of the admin team will attend as Secretary to the Panel to take notes and manage the documents required.

8.5 The Panel may request medical evidence. The student will be invited to attend the Hearing and informed that he or she may be accompanied by a 'Friend', relative, or support worker (if

applicable). In the event that the student is unable or unwilling to attend, the meeting may go ahead in their absence. The role of the 'Friend' is outlined in section 14 below.

8.6 At the Fitness to Study Panel, the student's support needs will be discussed, and various options considered including a break from study, study from home, a period of exclusion or postponement, or a recommendation for withdrawal from the College. In cases where an exclusion or postponement of studies is agreed, a clear time frame must be given to the student. The provision of appropriate documentation/ medical evidence within that time frame will be a condition of re-entry to the programme of study.

8.7 The Fitness to Study Panel may recommend to the Managing Director or Director of Student Records that a student be temporarily excluded if that action has not already been taken. Details regarding temporary exclusions are given above.

9: The Panel's decision

9.1 If the Panel decides the fitness to study 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
- Require the student to temporarily withdraw from the college (total or partial e.g. 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 study
- 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.

10: After the Hearing

10.1 The decision made by the Fitness to Study Panel will be notified to the student within 5 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 11 below.

10.2 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 (for example, where there are concerns that the attendance of the student at a meeting or the provision of information to the student could have a detrimental effect on the student e.g. if the student is self-harming or the student is in hospital).

10.3 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 his or her 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 informed about the outcome and any decision taken.

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

11.1 A student may appeal against the decision of a Fitness to Study 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.

11.2 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 Study Panel that might have materially affected the outcome
- the College did not follow the Fitness to Study 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 Study Panel was disproportionate with regard to all the circumstances of the case or was not permitted under the Fitness to Study Procedure.

11.3 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.

11.4 In the event of an appeal, the Director of Studies 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 11.2 above and warrant further consideration by a Fitness to Study 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.

11.5 If the Managing Director or Director of Student Records dealing with the appeal decide that the appeal does warrant further consideration, the Director of Studies dealing with the appeal will refer the case to a Fitness to Study 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)
- a second member of the academic staff or member of the Board of Governors (neither of whom has been involved in the case to date).

11.6 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.

11.7 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 8 above).

11.8 The Appeals Panel shall have the same powers as the Fitness to Study Panel and may confirm the decision of the Fitness to Study Panel or substitute another decision as it considers appropriate within the powers identified in 9.1 above. If new issues have arisen, the Appeals Panel may also decide that a new Fitness to Study Panel Hearing is required.

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

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

12: Return to study

12.1 In all circumstances, when an exclusion from studies has been recommended or agreed, the process for considering a return to study should be made clear to the student at the time of the exclusion. The particular process to be followed will be at the discretion of the Managing Director or Director of Student Records dealing with the case and will depend upon the context and specific circumstances of the original concern.

12.2 In all cases, return to study will depend on evidence of fitness to study. The precise nature of the evidence required from the student will depend on the individual circumstances of each case, but in all cases, it is expected that this will involve a report from a recognised independent health professional with sufficient knowledge about the health and wellbeing of

the student during the period of exclusion and, specifically, the student's capacity to return to study. The College may require a second medical opinion.

12.3 The decision to allow a student to return will be made by the Managing Director or Director of Student Records in compliance with academic regulations and availability of support upon return. Their decision is final and will be communicated in writing to the student prior to his or her return, clarifying any necessary requirements and special arrangements.

12.4 On the student's return, the College may decide that there should be regular review meetings with the student that can be used to support and monitor a return to study plan and provide staff with an agreed context in which to provide on-going pastoral care. If so, the student is expected to take personal responsibility for fully engaging with this support.

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 College's internal processes. 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: <https://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 Study 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 Study Procedure or a meeting of a Fitness to Study Panel, or a meeting of the Fitness to Study 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 Study 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. Being a neutral act not a sanction, a temporary exclusion 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.

Fitness to Study Procedure



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 Director of Studies. 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 Study Procedure, or the holding of a Fitness to Study 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 Study Panel meeting is held.