

## **Fitness to practice procedure**

### **1.0 Purpose and scope**

The Procedure relates to professional misconduct and/or professional unsuitability of students whose professions are regulated by Professional, Statutory and Regulatory Bodies (PSRBs).

The Procedure provides information on what types of activity or behaviour constitute professional misconduct and/or professional unsuitability, the support available, the processes which must be followed in dealing with allegations, and the sanctions which may be applied where such allegations are established.

The Procedure sets out the process for dealing with allegations relating to student professional misconduct and/or professional unsuitability within a reasonable timescale, having due regard to the spirit of natural justice. The Procedure is a safeguard for public protection and public safety and is informed by the obligation on practitioners to comply with those regulatory bodies' professional codes of practice and standards.

The Procedure should be applied in instances where, in the light of concerns or allegations of professional misconduct and/or professional unsuitability, consideration needs to be given not only to the student's status as a student of the College but also to their membership of, or entry to, their chosen profession.

The Student Disciplinary Procedure and Academic Misconduct Procedure apply across the whole college. Where concerns are raised in relation to disciplinary or academic misconduct matters involving a student on a programme covered by this Procedure, the case may be considered under the Fitness to Practise Procedure and provision is made to allow this, including allowing the application of disciplinary and academic misconduct sanctions.

### **2.0 Scope**

This Procedure applies to students whose professions are likely to be regulated by a professional body.

This Procedure does not cover concerns arising after a student has completed their course or withdrawn from it.

The Procedure does not, and cannot, seek to replace criminal or civil legal proceedings, nor those of professional bodies, which may also be pursued.

Disclosure of the progress and outcome of a case will only ever be shared with third parties (including students or members of staff who raise concerns) where there are legitimate grounds for doing so. Outcomes may be included in references.

Where a student is also a member of staff, guidance should be sought from Human Resources as to how any allegation might be considered.

Should a student withdraw partway through the process, prior to any final outcome, then the college may choose not to proceed with any future hearing.

### **3.0 Professional Misconduct/Professional Unsuitability**

Initiation of the Procedure may arise as a result of concerns raised by the student's conduct or behaviour; these concerns may be raised by the college itself, placement staff or members of the public.

Professional bodies require students pursuing programmes of study leading to, or enhancing registration as a practitioner, to be fit to practise at the point of registration. Some require students seeking to enter the profession to comply fully with their professional codes of practice and standards. This means having the knowledge, skills, attitudes, good health and good character to carry out the duties of a registered practitioner safely and effectively.

Professional bodies provide guidance for students, setting out the professional and personal conduct expected of student practitioners in order for them to be fit to practise. Student practitioners are directed to the relevant professional codes of practice and standards as part of their programme of study.

### **4.0 Professional Misconduct**

Professional misconduct includes any conduct or behaviour that would bring the profession into disrepute or that puts the proper operation of practice and/or client confidence at risk.

The college shall normally report any suspected criminal offence to the Police. However, if a person claims to be the victim of an offence committed by a student but does not wish the Police to be involved, the Vice Principal (or nominee) may agree not to report the matter.

The college may rely upon any finding of guilt or liability made against the student in any criminal and/or civil proceedings for the purposes of taking action against the student for professional misconduct under this Procedure but only if, and to the extent that, the finding relates to that professional misconduct.

### **6.0 Professional Unsuitability**

Sometimes, even where professional misconduct is not involved and/or client safety is not at risk, concerns may arise that a student is unsuitable for the profession for which they are studying.

The student, other students, their tutors, members of the public, or a placement provider may be the first to notice this. The issues of concern may be resolved by appropriate support and guidance, or by withdrawal from the programme on the part of the student. If the professional unsuitability is considered to be of a temporary nature, the student may seek an interruption of study as a course of action (e.g. due to illness).

A decision about professional unsuitability should take into account a student's level of study and how far they are from independent practise.

A decision on professional suitability can only be on the suitability of the student at the point of the decision being made.

## **7.0 Support, Training and Education**

As an educational institution, the college is committed to providing appropriate support, training and education about professional practise to students. Information on relevant codes and standards, along with ways students are expected to meet them must be integrated into relevant courses.

The burden is on the college to demonstrate and evidence allegations of professional misconduct and/or professional unsuitability. In deciding whether the student has committed professional misconduct and/or demonstrated professional unsuitability, the standard of proof shall be 'the balance of probabilities,' that is on the evidence available, the student is more likely than not to have committed professional misconduct/demonstrated professional unsuitability.

## **8.0 Procedure**

An allegation of professional misconduct and/or professional unsuitability against a student should be raised with the Head of Department. Following such a concern:

- The student will be advised in writing, within 5 working days of the referral of the following:
- A clear summary of the concerns raised and a brief explanation and relevant/reports (if available) to support the concerns will be provided.
- The decision of the Head of Department as to whether the concerns will be considered under the preliminary or the formal stage of the Procedure.
- If a decision has been taken to suspend the student pending a hearing, a rationale for the suspension will be provided in relation to the specific allegations and any terms and conditions associated with the suspension and details of the suspension review process.
- The Head of Department, in liaison with the college's data protection officer, will consider whether any information needs to be shared with a third party (e.g. placement provider) and will inform the student of this need. The sharing of information will only be done in line with exceptions outlined in the GDPR regulations.

The Head of Department may also consider referral to the Fitness to Study Procedure

### Preliminary Stage – Education, Training and Support

Where the Head of Department considers that the allegations can be dealt with through education, training and support, the student will be invited to attend a meeting with the Head of Department to discuss the allegations.

Following discussion, the Head of Department may decide on one of the following courses of action:

- provide the student with the opportunity to seek further guidance on the appropriate professional code of conduct and standards which may be in the form of one to one sessions, group sessions, directed reading or through online material.
- ask the student to complete further work to demonstrate their engagement with, and understanding of, the appropriate professional code of conduct and standards. This may take the form of a reflective piece of work (written, practical or oral), action planning or other such work.

Should a student fail to complete either of the above courses of action or, having completed them, fail to meet the required standards the Head of Department may refer the case to the formal stage for further consideration.

### Formal Stage

The Head of Department shall initiate the formal stage where:

- the matter has not been resolved by the course of action under the Preliminary stage.
- the original allegation was sufficiently serious, or.
- further breaches of professional conduct or manifestations of professional unsuitability have occurred following the matter being dealt with successfully at the preliminary stage.

The Head of Department, normally within 5 working days of the matter being notified to them, shall advise the student in writing:

- of the nature of the allegation(s) against the student.
- that the Head of Department will appoint an investigator to gather information and report back to them.
- that on receipt of the report the Head of Department will decide and notify the student whether and how the matter will progress further.
- of their right to be represented.
- that the matter is being considered under the Formal Stage of the Fitness to Practise Procedure.
- where a decision has been taken to suspend the student pending a hearing a rationale for the suspension will be provided in relation to the specific allegations and any terms and conditions associated with the suspension and details of the suspension review process.

The investigator will normally be a member of academic staff from the same curriculum area as the student who has had no involvement in the circumstances which led to the Procedure being invoked.

The role of the investigator is to gather all relevant information and evidence about the circumstances or behaviour that gave cause for concern, not just evidence which 'makes the case.'

The investigator should consider the circumstances of the alleged professional misconduct/unsuitability and examine this from the perspective of the student and of the other parties involved.

The investigation should be progressed and concluded as soon as is reasonably practicable and the investigator shall make every effort to report to the Head of Department within 10 working days of the investigator's appointment. However, where extensive interviews are required, and where they involve staff outside the college, this may extend the timescale of the investigation.

The student must be informed of any significant delays. Failure on behalf of the student to engage may be reported and considered at later stages of the Procedure.

When the investigation is complete, the investigator shall prepare a report. This shall be presented to the Head of Department along with one or more of the following recommendations:

- that there is no case to answer and that no further action should be taken.
- that there is a need to refer the student for a medical assessment
- that the allegations appear to be substantiated in whole or in part.

The Head of Department will review investigation findings (report and appendices). Where the investigator recommends that no further action be taken, this will be confirmed to the student 5 working days after receipt of the report.

Where there is a case to answer then the case shall be referred to a panel hearing.

The Panel shall comprise:

- a member of academic staff from outside the student's School
- either the Vice Principal Communications, Engagement and Student experience or the Vice Principal Curriculum and Quality who will act as chair.
- Where possible an external professional from the same field as the area of study

The investigator shall normally be in attendance, and where required, act as a witness answering questions from the Panel.

The student shall be given at least 5 working days' notice of the date and time when the Panel hearing will convene.

The student shall have the right to submit written evidence and to call witnesses to the Panel hearing, provided that details of the witnesses, their statements and or other evidence to be relied upon is given to administrator within 3 working days of the hearing.

The student may be accompanied at the Hearing by a friend. The person accompanying them may speak on the student's behalf.

When it has considered the case, the Panel shall reach one or more of the following decisions:

- case dismissed.
- a finding of professional unsuitability.
- a finding of professional misconduct.
- a finding of academic misconduct.

The Panel shall set out detailed reasons for its decision(s).

## **9.0 Right of appeal**

The student who has been the subject of fitness to practice procedures has the right to appeal the panel decision. This should be done in writing to either the Vice Principal Communication, Engagement or Student Experience or the Vice |Principal Curriculum and Quality (whichever did not chair the panel hearing) appeals should be submitted in writing within 10 working days of the panel hearing.

The Vice Principal may choose to call an appeal hearing to hear further evidence or may choose to base an appeal decision on a desk-based review of documentation.

Once internal appeal processes have been exhausted, the student has the right to appeal through the recognised awarding/registration body's own processes and procedures. Details will be provided on conclusion of the internal appeal.

### **For higher education students**

The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. West Nottinghamshire College is a member of this scheme. If you are unhappy with the outcome, you may be able to ask the OIA to review your appeal. You can find more information about making a complaint to the OIA, what it can and can't look at and what it can do to put things right here: <https://www.oiahe.org.uk/students>.

You normally need to have completed the fitness to practice procedure, including appeal, before you complain to the OIA. We will send you a letter called a "Completion of Procedures Letter" when you have reached the end of our processes and there are no further steps you can take internally. If your appeal is upheld or partly upheld, you can ask for a Completion of Procedures Letter if you want one. You can find more information about Completion of Procedures Letters and when you should expect to receive one here: <https://www.oiahe.org.uk/providers/completion-of-procedures-letters>.