

# Fitness to Practice Policy

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## 1. Purpose

The Fitness to Practice Policy applies to all students enrolled at the College, including work-based learning and work placements, that offer qualifications on behalf of the college regardless of their background or protected characteristic which are: age, disability, gender re-assignment, marital and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

The purpose of this policy is:

- a) To ensure that the College, in line with the requirements of any relevant professional bodies and organisations, effectively monitors the good health, character, discipline, standards of conduct and performance of students on programmes where students may be required to register with professional bodies in order to practice.
- b) To ensure that procedures are in place to report and address any concerns related to a student's health, character, discipline, standard of conduct and/or performance, both internally and externally, as appropriate.
- c) To ensure that any reported concerns related to a student's health, character, discipline, standard of conduct and/or performance are addressed consistently and fairly.

## 2. Scope

This policy applies to all students, of all ages, who are undertaking a programme of study at Warrington & Vale Royal College, where students may be required to register with a professional body or organisation in order to practice.

## 3. Responsibility

The responsibility of the implementation of the policy lies with the Director of Curriculum: Adult & Higher Education. This policy will be monitored by the Senior Leadership Team (SLT) and the Director of Curriculum: Adult & Higher Education at appropriate intervals and will be reviewed on a regular basis.

## 4. Overview

- 4.1 As part of the contractual agreement with professional bodies, Higher Education Institutions and FE Colleges are required to monitor good health, character, discipline, standards of conduct and performance on application and throughout all programmes leading to professional qualifications.
- 4.2 The College has a responsibility regarding students following programmes which lead to professional qualifications and / or which entitle the individual to register [either provisionally or fully] with a statutory professional body and / or to practice under license.

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- 4.3 Some programmes may require students to undertake external placements and/or work-based practice and the College has a duty to both the student and to the public to ensure that any risk of harm is minimised.
- 4.4 Where appropriate, the College is responsible for ensuring that students meet the relevant professional standards in addition to academic standards. The College may also be required to sign a declaration confirming that an individual is a safe and suitable entrant to the given profession and is 'Fit to Practice'.
- 4.5 An offer of a place to study on some programmes offered by the College may be conditional upon the applicant being deemed fit to practice.
- 4.6 Programme and Course Leaders must ensure that students are informed of the seriousness of maintaining professional standards and the regulations associated with the programme of study.
- 4.7 The fitness to practice of students on professional programmes will be assessed throughout the duration of the programme and if there are any concerns over the student's fitness to practice the College is required to investigate and address the issue.
- 4.8 The College may be required to report issues of fitness to practice to the relevant professional body and if applicable to the student's employer and the Disclosure and Barring Service (DBS).
- 4.9 The student may be required to declare any issues of fitness to practice, (ongoing issues or issues that have been dealt with and investigated) to the professional body on registration.

## 5. Operating Principles

- 5.1 The College is required to manage issues that may arise in this context and which may impact upon a student's suitability to continue with their programme of study or to be recommended for a license to practice in a particular profession. Different disciplines may have different external regulatory requirements and so Fitness to Practice Panels have been established to meet these different obligatory requirements. (see Appendices)
- 5.2 The Fitness to Practice Panels exist to consider and respond to such issues and to ensure that the relevant Professional / Statutory body requirements are met in an appropriate and timely manner.
- 5.3 The College will be required to consider circumstances where members of WVR staff or work-based placement staff, or other appropriate individuals, have concerns regarding a student's fitness to practice with regard to:

### Breaches of professional responsibility

- Breaches of the WVR Code of Conduct
- Failure to declare a Criminal Conviction / caution

- An enhanced DBS certificate with undeclared information
- A recently acquired conviction / caution
- An on-going or pending criminal investigation
- Ill health (including mental health issues) where this may be relevant to the profession
- Conduct contrary to professional regulatory body guidance
- Inappropriate behaviour

The above list is not exhaustive.

- 5.4 College procedures are based on standards set by statutory regulatory bodies and upon the principles of natural justice. Where concerns are raised regarding a student's fitness to practice, the student will be informed of the concerns and the actions of the College. Students will have access to the evidence [except where such evidence may be in contravention with GDPR (UK General Data Protection Regulation 2018), and will be able to respond formally to those concerns.
- 5.5 Information collated will be treated as 'sensitive, confidential data' in line with College Policy and GDPR (UK General Data Protection Regulation 2018)
- 5.6 WVR staff involved in investigating concerns about fitness to practice or as members of Fitness to Practice Panels are independent for this purpose.
- 5.7 Students have the right to be accompanied by a friend, colleague or representative at all stages of the procedure.
- 5.8 The College reserves the right to amend the Fitness to Practice policy in the light of prevailing circumstances such as government legislation, changes to professional body requirements or operational experience.

## **6. Procedure to be followed when concerns about Fitness to Practice are raised:**

- 6.1 WVR staff and/or work-based placement staff should formally report in writing any concerns related to a student's fitness to practice to the subject area Curriculum Manager, who in turn will notify the Director of Curriculum: Adult & Higher Education.
- 6.2 The Director of Curriculum: Adult & Higher Education will determine if any immediate action needs to be taken. This may include:
- Assessing if there are any immediate risks to staff, students, clients or visitors and implementing any precautionary measures.
  - Occupational Health Referral.
  - Referring the student to appropriate support services.
  - Suspension of attendance at placement, if appropriate.

- Appointment of an Investigating Officer to formally investigate the allegations and to report back to the Director of Curriculum: Adult & Higher Education.
- Referring the matter for consideration by SLT.
- Referring the matter for consideration under the College Disciplinary Procedures.
- Referring the matter for consideration by the Fitness to Practice Panel.
- Recommend to the Director of Curriculum: Adult & Higher Education whether the student should be suspended from the College until the issues are investigated and addressed/outcome determined.

The above list is not exhaustive and a combination of the above list of actions may be deemed appropriate in specific individual circumstances.

- 6.3 Judgement as to whether a Fitness to Practice Panel should be convened will rest with the College, [normally the Director of Curriculum: Adult & Higher Education] with each case being considered in the light of the prevailing circumstances.
- 6.4 All action taken must be formally recorded in the student's record on Promonitor. Written notification of any recommendation sent to the student.

### **6.5 Exceptional circumstances – misconduct within the practice/placement area**

- 6.6 An appropriate member of WVR staff (usually the subject area Curriculum Manager) may, in exceptional circumstances, suspend a student immediately from work-based placement settings. Such action must be notified to the Director of Curriculum: Adult & Higher Education at the earliest opportunity and no later than 24 hours after the event.
- 6.7 Exceptional circumstances may include acts of violence or aggression by the student or where the student's behaviour gives cause for concern with regard to the safety of others or themselves, or theft or damage to property whilst on placement. However, this list is not exhaustive.
- 6.8 Students should be advised that suspension from the placement and/or the College is not at this stage a disciplinary sanction but is a measure invoked where it is considered essential to do so to allow time for an appropriate investigation.

## **7. Operation of the Panel**

- 7.1 The Director of Curriculum: Adult & Higher Education will convene a Fitness to Practice Panel to consider evidence related to professional/behavioural problems, health matters, criminal offences or other issues that give rise to concerns regarding a student's fitness to practice.

7.2 In determining a schedule for the meeting of the Fitness to Practice Panel, the Director of Curriculum: Adult & Higher Education should give consideration to other relevant factors, for example the student's overall progression and profile, as well as the impact of any suspension.

7.3 The student should be given a reasonable period in which to seek advice and prepare their response.

7.4 The Director of Curriculum: Adult & Higher Education will:

- Nominate a member of staff to be the presenting officer to the Panel (normally the Investigating Officer).
- The investigating officer will normally interview the student and relevant parties, collate relevant evidence and produce a written report of their findings.
- Notify the student of the allegation/issue that is subject to consideration by the Panel.
- Invite the student to make representation to the Panel either orally or in writing if they wish.
- Advise the student that they have the opportunity to invite witnesses to attend the Hearing to substantiate their representation.
- The student will be advised that they have the right to be accompanied by a friend, colleague or representative at all stages of the procedure; however, the students must make their own arrangements in this matter.
- Provide a copy of the papers for consideration by the Fitness to Practice Panel to the student (except as outlined in 7.8 below).
- Notify all parties of the names and roles of the attendees, including if applicable the names of any witnesses that may be interviewed by the Panel

7.5 The Panel will consider the evidence with regard to:

- Safeguarding vulnerable groups
- Child protection and safety
- Public protection and safety
- Professional codes of conduct
- Access to the relevant profession
- The student's progression on the programme
- Potential risk to the College, staff and students and any other relevant individuals

7.6 The Panel may consider evidence from a range of sources including occupational health referrals.

7.7 Evidence to be considered by the Panel will be made available to the student except where such evidence may be in contravention of GDPR (UK General Data Protection Regulation 2018).

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- 7.8 Notes of the case presented to the Panel and the decisions of the Panel will be taken and made available upon request to the individual concerned. Verbatim minutes will not be recorded.
- 7.9 The Panel will reach a decision and make recommendations based upon all the available evidence.
- 7.10 Where necessary, the Chair may decide to suspend the deliberations of the Panel and reconvene pending further information.
- 7.11 The Panel will determine based on the civil standard of proof whether the students fitness to practice is impaired or not and will determine the most appropriate recommendations.
- 7.12 Recommendations available to the Panel can include:
- The student receives no formal warning or sanction.
  - Referring the matter to other WVR Procedures such as Student Disciplinary Procedure if there is evidence of misconduct but the student's fitness to practice is not impaired.
  - Formal monitoring of the student's progress for a specified period of time, with or without specified support and/or conditions/undertakings.
  - Warning/caution on file for a specified period
  - Suspension from the programme for a specified period.
  - Exclusion from the programme of study/College for a specified period
  - Expulsion from the programme of study/College
- 7.13 The Chair of the Panel will inform the student in writing of the outcome and the recommendations of the Panel. The student will be advised about the applicable appeals process. Where appropriate the student's employer and/or relevant professional body will be notified of the outcome and if applicable the matter will be referred to the Disclosure and Barring Service.
- 7.14 WVR works in partnership with employers in upholding professional standards and will liaise with them in the first instance regarding the reporting of Fitness to Practice findings to the relevant professional body. However, the College reserves the right to make referrals directly if this is deemed appropriate.



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## 8. Appeals against the decision of the Fitness to Practice Panel

### Appeal against exclusion/expulsion and other decisions of the panel.

- 8.1 Where the recommendation of the Panel is that the student should be excluded for a defined period of time or expelled from the programme and/or the College, the student has a right of appeal to the Principal.
- 8.2 The request for such an appeal must be made in writing, providing full supporting evidence and grounds for appeal, to the Principal within **10 working days** of receipt of the decision.
- 8.3 Students should be made aware that this is not a re-opening of the investigation and that they must provide reasonable evidence to substantiate their appeal.
- 8.4 Students should be made aware that disagreement with the decision of the Panel is not in itself sufficient reason to appeal.
- 8.5 Upon receiving the written appeal request, the Principal may:
- Reject the appeal or
  - Request the Fitness to Practice Appeals Panel convenes to review the appeal
- 8.6 If requested by the Principal, the Fitness to Practice Appeals Panel will convene to consider whether the documentation of the case suggests that the decision of the original Fitness to Practice Panel was reasonable and the procedure was followed correctly. The Fitness to Practice Appeals Panel may:
- Recommend to the Principal that the decision of the original Fitness to Practice Panel is amended
  - Recommend to the Principal that the decision of the original Fitness to Practice Panel is upheld
  - Defer the decision pending further information and advice
- 8.7 The decision and any recommendations of the Principal and Fitness to Practice Appeals Panel will be notified to the student and to the original Fitness to Practice Panel.

## 9. Completion of Procedures and the Office of the Independent Adjudicator for Higher Education (OIA)

- 9.1 When the student has exhausted the College procedures the student will be issued with a completion of procedures letter.
- 9.2 Higher Education students who remain dissatisfied with the final outcome of their Appeal (and believe that the College has failed to follow this procedure correctly, may take their case to the Office of the Independent Adjudicator for Higher Education (OIA). Further information can be found at <http://www.oiahe.org.uk/>

## Appendix 1 Fitness to Practice Policy Terms of Reference

- 1.1 A student's fitness to practice is called into question when their behaviour or health raises a serious or persistent cause for concern about their ability or suitability to continue on a course. This includes, but is not limited to, the possibility that they could put patients, the public, other students or staff at risk, and the need to maintain trust in the profession.
- 1.2 Public protection is a primary concern when making decisions in relation to a student's application and continued participation on a programme of study.
- 1.3 This process is applicable to all applicants to, and students enrolled on, relevant courses in Healthcare, Childcare, Counselling and Education & Training.
- 1.4 This process is also applicable to all applicants to, and students enrolled on, any programme where there is a work-based element or specific project involving children or vulnerable adults, or is in a healthcare setting.
- 1.5 Regulated programmes that lead to inclusion on a professional register are required to specifically consider standards of conduct and performance, discipline and fitness to practice issues on application and throughout the student's participation in the programme.
- 1.6 Applicants to, and students enrolled on programmes that lead to inclusion on a professional register are required to declare any issues of fitness to practice on application to, and annually throughout their course and prior to registration with the 'regulator'
- 1.7 We define good character as the absence of evidence that a person has committed (and/or has any disposition towards) conduct or behaviour that is inconsistent with the standards set out in the College's regulations and/or the regulator's Code of Conduct (as appropriate).
- 1.8 We define good health as the absence of evidence that a person has a physical or mental condition(s) that may impair their fitness to practice, or may lead to behaviour inconsistent with the College's regulations and/or the regulator's Code of Conduct (as appropriate).
- 1.9 Each student's fitness to practice case will begin with an initial investigation, then, if there is a case to answer, proceed to a student fitness to practice hearing. The preliminary investigation will be undertaken by an investigator (also known as the presenting officer) and the hearing will be heard by the College's Fitness to Practice Panel. The investigator/presenting officer will usually be the In appropriate cases the student may be suspended on the authority of the subject area Curriculum Manager, the Access & HE Curriculum Manager or the Director of Curriculum: Adult & Higher Education pending a completion of a full investigation.

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- 1.10 The panel will action in a proportionate way by weighing the interests of the patients and the public against those of the student.
- 1.11 Any mitigating factors will be considered by the panel when it is deciding on the appropriate outcome.
- 1.12 The College will consider whether it is necessary to suspend a student temporarily while the fitness to practice investigation or hearing takes place.
- 1.13 Possible outcomes of hearings;
- The student receives no warning or sanction;
  - The student receives a warning as there is evidence of misconduct but the student's fitness to practice is not impaired to a point requiring a sanction;
  - The student's fitness to practice is judged to be impaired and they receive a sanction. Beginning with the least severe, the sanctions are a) conditions or undertakings, b) suspension c) expulsion.
- 1.14 The College will consider the options available starting with the least severe and moving to the next outcome only if satisfied that the warning or sanction is not sufficient.
- 1.15 Warnings, conditions and sanctions will remain on the student's record for a specified period, normally for the duration of the student's course. Warnings need not be declared to any regulators. The College however, **MUST** inform the Regulator of any sanctions it imposes.
- 1.16 External relevant Regulators and Councils reserve the right to set aside the College's fitness to practice decision, if there are grounds for doing so.
- 1.17 While WVR may be willing to admit an applicant on a programme of study or allow a current student to continue, successful completion of the programme does not guarantee the applicant/student will be able to practice, or take up a related profession. This decision is made by the appropriate regulator.
- 1.18 Article 60 of the Health Act (1999) (amended by Health and Social Care Act 2001) identifies public protection as the primary concern when making decisions in relation to a student's continued participation on a programme of study. This includes specific consideration of standards of conduct and performance, discipline and fitness to practice.
- 1.19 Teachers and those training to become teachers are required to have a high standard of physical and mental health [subject to any DDA exemption] to enter or remain in the teaching profession. The health, education, safety and welfare of pupils are important in deciding on an individual's fitness to teach.
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Government legislation also requires child protection to be of primary concern when making decisions in relation to a student's continued participation on pre-registration/Initial Teacher Training (Qualified Teacher Status) programmes of study. This includes consideration of standards of conduct and performance, discipline and fitness to practice.

1.20 All decisions related to a student's fitness to practice are made with due regard to the Regulators' Code of Conduct, Rules & Regulations and the College's regulations as appropriate:

- WVR Code of Conduct
- WVR Equality and Diversity Policy
- WVR Health & Safety Policy
- WVR Safeguarding & Prevent Policy
- WVR Assessment Procedures
- WVR Disciplinary Procedure
- All other relevant Professional and / or Statutory Body requirements which may be appropriate

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## Appendix 2 Warrington & Vale Royal College Fitness to Practice Panel – Membership

- 1.1 The College's Fitness to Practice Panel will be chaired by the Vice Principal: Curriculum or nominee.
- 1.2 Review of policy will be completed annually by the Director of Curriculum: Adults & Higher Education and considered for approval by the Executive Leadership Team and Governors.
- 1.3 Should any Practice to Fitness cases be referred and reviewed, the Director of Curriculum: Adult & Higher Education will submit a statistical annual report of all decisions made and any issues of principle to the Senior Leadership Team and Governors.
- 1.4 The College Fitness to Practice Panel will meet as required
- 1.5 The Panel includes the following members of staff:
  - **Vice Principal: Curriculum (Chair)**
  - **Director of Curriculum: Adult & Higher Education**
  - **Director of Quality**
  - **Safeguarding & Inclusion Manager**
  - **The Investigating Officer**
- 1.6 All cases will be reported to the relevant Regulator in accordance with their regulations by the relevant Course/Programme Leader.
- 1.7 The Presenting Officer leaves with the student, and is not present for the decision-making process.
- 1.8 All panel members should
  - Know and understand the rules and regulations of fitness to practice and disciplinary matters at the College;
  - Be fair-minded and willing to hear the full facts of the case before reaching a decision;
  - Be prepared to take into account appropriate expert advice;
  - Make sure the fitness to practice proceedings are fair and proportionate;
  - Know and understand the legal requirements and good practice of equality and diversity.
  - Be willing to undertake training for the role as appropriate.

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**Appendix 3** Pre-Hearing Protocol

Once grounds for a case have been established, a standard letter **must** be sent to the applicant/student, which contains the following information:

- The precise nature of the case and the evidence for it (this must be communicated to the applicant/student at least two weeks before the date of the Panel Hearing;
- The date of the Fitness to Practice Hearing;
- The requirement for the student to attend the Hearing;
- The student's right to be accompanied at the Hearing by someone of support.
- The requirement for the student to ensure that all relevant evidence is made known to the Chair at least one week in advance of the hearing;
- The requirement for the Panel to provide the student with all relevant evidence relating to the case at least two weeks before the hearing;
- Both the student and the panel will not be allowed to produce any new evidence during the hearing. If there is new relevant evidence from the panel, or the applicant/student then the Hearing will be reconvened;
- The outcome of the hearing will be reported to the appropriate Regulator in accordance with their procedures.
- Whilst there is guidance issued by the 'regulators', 'regulators' will not participate in student fitness to practice cases. The regulators are not a fitness to practice adjudicator or an appeal body for students in schools. Regulators however, are the final arbiter in relation to an individual's eligibility to enter into pre-registration training; and their inclusion on the appropriate profession's register.
- The 'Regulator' reserves the right to set aside a Curriculum Areas fitness to practice decision, if there are grounds for doing so.

## Appendix 4 Fitness to Practice Hearing Protocol

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- 1.1 The Chair will open the hearing, introduce and summarise the roles of all parties present and the purpose of the Hearing.
- 1.2 The Chair will ask members to confirm that there are no perceived conflicts of interest between the initial investigator(s), panellists and the student.
- 1.3 The Chair will confirm that the student was informed of the right to be accompanied by a person in the role of support.
- 1.4 The Chair will confirm that the outcome of the case will be reported to the appropriate Regulator in accordance with their procedures.
- 1.5 The Chair shall confirm to the parties the substance of the issue(s) of Fitness to Practice.
- 1.6 The Chair will ask the presenting officer to outline the details and the supporting evidence of the case to all present, introducing any applicable witnesses.
- 1.7 The Panel may ask questions of the presenting officer and witnesses at any time.
- 1.8 Through the Chair the student may ask questions of the presenting officer and witnesses.
- 1.9 The Chair and Panel will ask the student to respond to the issues of fitness to practice, referring to any evidence provided.
- 1.10 The Panel may ask questions of the student at any time.
- 1.11 Through the Chair the presenting officer may ask questions of the student and witnesses.
- 1.12 After the hearing, following no further questions from the Panel or the applicant/student, the presenting officer will summarise their case.
- 1.13 The Chair will ask the student to summarise their case.
- 1.14 The Chair will then adjourn the hearing to consider the evidence that the Panel have heard. The student and Presenting Officer will leave for the Panel to consider the issues. They may at this stage choose to seek additional evidence or information from other parties. Should this be the case, all parties will be informed as to the nature of the enquiry and the hearing will be reconvened following a repeat of these procedures.
- 1.15 Panel members will advise the Chair of their opinion of the case. Following this discussion, the Chair will act as final arbiter in the matter.

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- 1.16 The Chair will announce their decision, either by inviting the applicant/student to return, or in writing. The outcome of the hearing will be confirmed in writing within **five (5) working days** of the decision.
  - 1.17 The student will be notified of the appropriate appeals procedure.
  - 1.18 Decisions made against individuals will be reported to the Regulator as appropriate.
  - 1.19 The College cannot guarantee entry to 'The Register' as this is a decision that must be made by the appropriate 'Regulator' and can only be made at the point of application to join The Register.



### **Appendix 5** Timescales

Fitness to practice investigations and hearings can be lengthy. Students subject to a hearing will be informed as soon as possible and at least two weeks in advance of the panel meeting. Students will also be informed of the timetable for the case and of any subsequent changes to that timetable. The College will endeavour to minimise the delay between the initial review of the case and commencement of the panel.

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**Appendix 6** Fitness to Practice Appeals Panel

1.1 Membership

- Deputy Principal: Finance & Estates (Chair)
- Assistant Principal: Quality & MIS
- Assistant Principal: Business Responsiveness & Growth
- Director of Student Support & Inclusion

1.2 The applicant or student will have the opportunity to make written representations to the Panel through their appeal submission.

1.3 The Panel may request further information from students, staff or where applicable external representatives.

1.4 The Panel may convene an oral hearing if the case is particularly complex or there is ambiguity/uncertainty regarding the appeal.

1.5 Minutes of the meeting will be taken by one of the College's PAs.

1.6 The College Fitness to Practice Appeals Panel will meet when required.

1.7 The Chair will act as the final arbiter in the matter after considering the opinions of all panel members and will make the appropriate recommendation to the Principal.

Appendix 7 Process Chart

