

# **FITNESS TO PRACTICE PROCEDURE**

# Fitness to Practice Procedure

**Policy Owner:** ELT  
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Applicable to staff: Yes/~~No~~  
 Applicable to students: Yes/~~No~~  
 Publish on College website: Yes/~~No~~

## Consultation:

Undertaken with:	Yes/No:	Date:
Board/Committee		
ELT	Yes	16 November 2020
CMT		
Unions		
Students		
Employees		
Employers/Stakeholders		

## Any Associated Documentation, for Reference:

Student Discipline Procedure, Complaints Policy/Procedure
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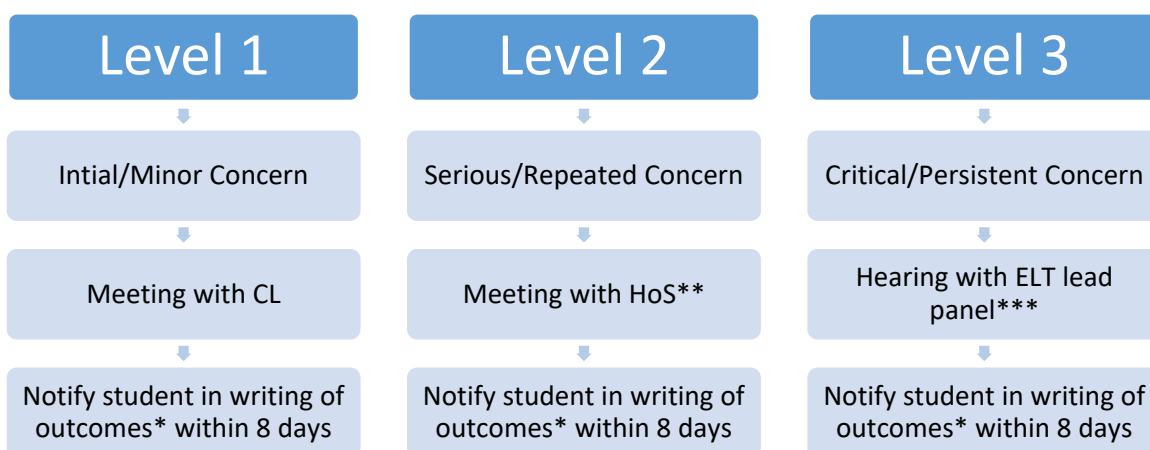
## **Fitness to Practice Procedure**

### **Summary**

The following document details the procedure concerning a student's fitness to practice in a professional setting as part of their academic programme. It is designed to safeguard the learner, clients, the College and the associated professions. The following important information is detailed within this procedure:

- An outline of expected professional conduct.
- Examples of how Professional Suitability concerns may arise including; failure to adhere to the codes of conduct of the College/ professional body/place of work, failure to disclose criminal convictions or health conditions which could impact on the student's ability to work safely
- Support available for students regarding Professional Suitability.
- The procedure for investigation of professional misconduct.
- Possible outcomes of professional misconduct investigations which include; additional student support, temporary removal from the programme of study, permanent removal from the programme of study.
- The appeals procedure following an outcome of an allegation of professional misconduct.

Upon receiving a complaint or concern regarding a student's professional practice the appropriate level must be followed.



**\*Outcomes**

- **Level 1 and above:**
- No further action
- Refer to a different level
- Issue a verbal warning
- Outline support available to student
- Create action plan with student
- **Level 2 and above:**
- Withdraw temporarily from placement
- Refer to fitness to study/disciplinary policies
- **Level 3:**
- Written warning
- Suspension
- Withholding achievement
- Expulsion

\*\*Learner to be informed of meeting in writing within 5 working days

\*\*\* Learner be notified of hearing in writing within 10 working days

Panel to be made up of Secretary (Appointed by ELT)

ELT/HoS (Chair)

Member of staff from department

Member of staff outside of department

A member of the profession external to the college.

**All written communication must be kept on record and copies to be held by HoS**

## Introduction

1. Preston's College provides a number of programmes of study where students' Professional Suitability to register for and undertake the programmes require assessment and monitoring by the College.
2. These programmes of study are ones which usually lead to professional registration and/or a license to practice in a professional context. They are characterised as being practice-centred and are normally directed towards the achievement of professional competence and/or professional registration. In addition, most of these programmes are accredited and/or regulated by professional, statutory or regulatory bodies (PSRBs). In particular, PSRBs, together with other professional advisory bodies (PABs) are concerned with seeking to ensure that students comply with professional codes of conduct and demonstrate developing standards of professionalism.
3. The College needs to be satisfied that students admitted, registering for, and undertaking such programmes are professionally suitable to do so, with reference to the standards of the particular profession and/or the requirements of any relevant PSRBs and/or PABs. The College's Disclosure and Barring Checks (DBS) Policy and Procedures sets out the arrangements for the admission of students with police warnings, reprimands, cautions and convictions. Once students are registered at the College, they are subject to this Professional Suitability Procedure in the event that Professional Suitability concerns are raised.
4. Students undertaking such programmes will be required at all times to:
  - demonstrate acceptable standards of conduct
  - demonstrate relevant values and attitudes
  - satisfy relevant criminal record requirements
  - satisfy relevant health requirements
5. This Procedure sets out how the College will normally respond to instances where a concern is raised regarding a student's Professional Suitability and the type of action that the College may take to deal with the concern and to support the student. In appropriately serious cases, the College has the right to suspend and/or terminate a student's registration on the programme.
6. Examples of where Professional Suitability concerns may arise include (but are not limited to) instances where a student has or is suspected of having:
  - health, mental health, emotional or inter-personal problems, which indicate a lack of insight and appropriate management thereof, and which gives rise to concerns about possible risk to self or others
  - failed to comply with PSRB and/or PAB requirements in relation to Professional Suitability at any point in time
  - failed to act within any statutory frameworks which set out students' professional duties and responsibilities
  - breached standards of acceptable conduct including those set out in the College's Code of Conduct and Disciplinary Policy or by a relevant PSRB and/or PAB, for example in connection with (but not limited to):
    - abuse or harassment, including through the use of social media
    - violent, aggressive or threatening behaviour (physical, verbal or other)

- sexual misconduct
  - failure to disclose conviction
  - failure to treat others with dignity or respect, or to practice in a non-discriminatory way
  - dishonesty or untrustworthiness (such as the misrepresentation of qualifications or professional experience, or the forging of documents or signatures, or theft or making false expenses claims)
  - academic misconduct
  - health and safety breaches
  - activities which constitute a criminal offence
  - the commission or suspected commission of a criminal offence
  - alcohol or substance abuse problems or addiction
  - anti-social behaviour which adversely affects the proper operation of placement/work based settings
  - the failure to demonstrate an attitude, demeanour or communication appropriate for individuals working in the profession concerned
  - breach of confidentiality
  - lack of motivation or interest and/or failure to engage in learning activities
  - unsafe practice, incompetence or requiring too much supervision
  - failure to self-reflect, lack of insight, poor self-management, lack of personal accountability
  - safeguarding concerns
  - poor mental and physical health which interferes with the students ability to practice safely
  - failure to seek help and engage with appropriate services in relation to health issues
- Where, due to the nature of the programme, the College is concerned that the student's Professional Suitability may be, or may become, impaired in light of a reasonable suspicion that as a result:
    - a risk is posed to the student's own health, safety or wellbeing and/or that of others
    - the proper operation of the profession is or may be adversely affected
    - a relevant placement or work based setting is or may be adversely affected and/or
    - trust in the profession or the College may be undermined or the profession or College is brought into disrepute

7. The College recognises that concerns regarding students' Professional Suitability may arise in a variety of ways (e.g. as result of a disclosure made by the student, or from the circumstances of a student's practice, academic performance or conduct, or from issues raised by College staff, other students, health professionals, placement providers or service users). The College will consider and address concerns regarding students' Professional Suitability howsoever they arise and will endeavour to take action to deal with concerns promptly and fairly. Staff to whom disclosures are made or concerns are raised are encouraged to consult with their Head of School to discuss next steps. The College recognises that dealing with matters in this way is critical not only to ensuring consistency and that relevant professional standards are attained and maintained, but also to supporting student learning and academic achievement and to the furtherance of a positive student experience.
8. This Procedure applies to students throughout their period of registration with the College, both on and off campus, and at all times. It is not limited to term time or placement or work-based learning.

9. In implementing this Procedure, the College will remain mindful of its duty of care and of its obligations to students under the Equality Act 2010 including in appropriate cases to make reasonable adjustments. It will also remain mindful of the often confidential and sensitive nature of Professional Suitability matters and of its obligations under the Data Protection Act 1998.
10. The standard of proof applied at every stage of this Procedure is the balance of probabilities.
11. When dealing with students under this Procedure, College staff will consider what support and guidance may be offered to students. Students will be reminded of the support services provided by the College and will be encouraged where appropriate to seek support from relevant external sources (e.g. local GPs or mental health services) as well as from sources internal to the College.
12. Students should be aware that, in the course of dealing with Professional Suitability concerns, the College may consider it appropriate to discuss and/or refer matters and/or their outcomes to third parties such as University Partners, PSRBs or placement providers and agencies such as Social Services, the Police or the Disclosure and Barring Service. The College will normally notify the student when doing so, but may do so on occasion without notification to the student in situations deemed to be of risk. Where such a third party or agency carries out any investigation or other process, the College may suspend or delay taking action under this Procedure, although it is not obliged to do so. The College will not be bound by the outcome of any third party or agency investigation or other process.
13. Whilst the College anticipates that most matters involving Professional Suitability concerns will be dealt with under this Procedure, matters may arise where it is appropriate for the College to implement other College processes (such as its Disciplinary Policy and/or Fitness to Study Policy).

### **Concerns about a student's health and wellbeing**

14. There may be occasions when a student's physical or mental health means that they pose a risk to themselves, or to others, which may include service users in placement settings. For students following professional programmes, such health concerns will usually be managed through this procedure, especially where the student's presentation gives rise to Professional Suitability concerns arising from a failure to disclose a health issue, a lack of insight into their condition and/or its impact upon others and/or their professional practice. In all cases, the process will be conducted in as supportive a way as possible and specialist expertise from the internal support services. In some cases, it might be deemed appropriate to manage health concerns through the Fitness to Study Policy.

### **Conduct which may also be a criminal offence**

15. If a student's conduct may be in breach of the criminal law, the College may at its discretion, refer the matter to the Police. In addition, the College may at its discretion suspend or delay taking action under this Procedure pending the outcome of any Police inquiry and/or criminal investigation/prosecution.
16. The College may take action in respect of a student under this Procedure notwithstanding a conviction or acquittal in criminal proceedings. The College is not bound by the outcome of any criminal prosecution although the College may in its discretion take any penalty imposed

by a criminal court into consideration in determining any outcome to be imposed under this Procedure.

### **Temporary suspension or exclusion of student to mitigate risk**

17. This section refers to the use of a temporary suspension of a student from their placement, work-based learning setting, related learning activities and/or programme, or temporary exclusion from College premises as a means of mitigating risk, not to their use as a penalty. Any temporary suspension or exclusion made under this section is a neutral act and is not a determination regarding any Professional Suitability concerns raised.
18. Where the relevant Head of School deems that a student about whom Professional Suitability concerns have been raised poses a serious risk to:
  - their own health, safety and/or wellbeing and/or that of others
  - the professional activities of a placement provider or other professional organisation or to a practice situation
  - the property of the College and/or others, and/or
  - the reputation of the College or a placement provider or other professional organisation, and/or its proper functioning and/or its activities and immediate action in the form of temporary suspension and/or exclusion is reasonably required to remove or reduce the risk, a recommendation will be made that the student be temporarily suspended and/or excluded.

### **Procedure to be followed at Levels 1, 2 and 3**

19. Concerns about a student's Professional Suitability will normally be dealt with under the following Procedure, which has 3 levels of concerns:
  - Level 1: Initial, emerging or minor concerns
  - Level 2: Serious and/or continuing concerns
  - Level 3: Critical and/or persistent or cumulative concerns
20. The Procedure may be entered at any level without any requirement for an earlier Level to have been commenced or exhausted, although it is anticipated that most situations can be managed by action taken at Levels 1 and/or 2. At which Level the Procedure is implemented will depend on factors such as the nature of the Professional Suitability concern, the seriousness of any risk posed and the student's response to any steps taken so far by the College to manage the situation.
21. Students dealt with under this Procedure will be entitled at any stage to be accompanied and/or represented by one member of staff, friend or relative. This is in addition to any health professional or support worker who may usually accompany the student. The role of this individual is to provide support to the student. It is not to advocate or represent the student.
22. Should a student without good cause be unwilling or unable to participate at any stage of this Procedure or attend a meeting/ hearing, the College reserves the right to follow the Procedure in their absence.
23. Where a student decides to withdraw from the programme, or is withdrawn on academic or competency grounds, and there is an outstanding Professional Suitability concern, the



Professional Suitability process will normally continue until completed so that a formal judgement may be reached whether or not the student chooses to engage with the process.

## **Investigations**

24. Prior to any matter being determined at a meeting under Level 1 or 2 or a hearing at Level 3, the College will undertake an investigation as is reasonable and appropriate in the circumstances. The purpose of the investigation will be to inform the College of the nature of the Professional Suitability concern, to recommend to the Head of School the Level at which it should be dealt with (if any), and to prepare a report to be presented at the relevant Level (if appropriate). A member of staff will be appointed by the relevant Head of School to act as Investigating Officer. Any investigation will be carried out in a transparent and fair manner.
25. The Investigating Officer will determine the process to be followed for the investigation and will speak with the student concerned and with other students, staff and third parties where relevant (such as placement providers or health professionals). Where concerns are initial or minor, an investigation meeting with the student may not necessarily be held, but an initial response from the student to the concern will be sought. In more complex cases, a professionals' meeting may be called in order to ascertain the nature of the concern and gather information. The student will be informed that an investigation is being carried out, the identity of the Investigating Officer, and will be invited to respond.

## **Action Plans**

26. Where the outcome at any Level of this Procedure includes the drawing up of an action plan, the plan will set out how the matter will be managed and any requirements to be placed on the student. The action plan will state that where the student fails to comply with any requirements placed upon them, the matter may be referred to be dealt with at a higher Level of the Procedure. The student will be provided with a copy of the action plan. A date will be arranged at which the action plan will be reviewed by an appropriate member of staff at a review meeting who will consider whether the action plan should continue and, if so, whether it should be amended, and whether any requirements have been complied with and, if not, whether the matter should be referred to a higher Level. The student will be invited to the review meeting and the outcomes of the review meeting notified to the student in writing.

## **Level 1 – Initial, Emerging or Minor Concerns**

27. Initial, emerging or minor concerns about a student's Professional Suitability will normally be dealt with under Level 1 in the following way. Examples of such concerns include but are not limited to poor time keeping and/or attendance, failure to prepare appropriately for placement activities, and failure to comply with a dress code.
28. The Curriculum Leader will inform the student that there is a concern about their Professional Suitability and the nature of the concern and that the matter is to be dealt with under Level 1. The student will be provided with a copy of this Procedure. The Curriculum Leader will arrange a meeting with the student to discuss the concern and any support needs the student may have.
29. Following the meeting, the Curriculum Leader will determine whether or not the student's Professional Suitability is impaired or may become impaired and any actions to be taken. Such actions may include (but are not limited to) one or more of the following outcomes:

- no further action to be taken
  - the matter be referred to another Level
  - issue a warning
  - support arrangements and/or reasonable adjustments be put in place for the student
  - an action plan be drawn up
30. The student will be notified in writing normally within 8 working days of the date of the meeting of the Curriculum Leader's decision, with reasons, and any actions to be taken.
31. A copy of the decision letter and any associated documentation will be retained and a copy sent to the Head of School

## **Level 2 – Serious and/or continuing or repeated concerns**

32. Serious and/or continuing or repeated concerns about a student's Professional Suitability will normally be dealt with under Level 2 in the following way. Examples of such concerns include but are not limited to failure by a student to adequately address issues dealt with at Level 1 of this procedure, ongoing health issues that are not being appropriately managed by the student, and unsatisfactory conduct on or off campus.
33. The Head of School responsible for the area in which the programme resides will inform the student in writing that there is a concern about their Professional Suitability and the nature of the concern and that the matter is to be dealt with under Level 2. The student will be provided with a copy of this Procedure.
34. The student will be invited to a meeting with the Head of School to discuss the concern and any support needs the student may have. The student will be given a full opportunity to respond to the concern. The Head of School may invite other staff members to attend the meeting and may consult with and seek information from other persons in order to deal with the matter and to provide support to the student. Records of previous meetings under this Procedure and any action plans may be available at the meeting.
35. The student will normally be given at least 5 working days' notice of the meeting and will be provided in advance of the meeting with relevant documentation supporting the concern.
36. The Head of School will determine whether or not the student's Professional Suitability is impaired or may become impaired and any actions to be taken. Such actions may include (but are not limited to) one or more of the following outcomes:
- no further action to be taken
  - support arrangements and/or reasonable adjustments be put in place for the student
  - an action plan be drawn up
  - issue a warning
  - the student be withdrawn temporarily from placement, other work-based setting or related learning activity
  - the matter be referred to another Level
  - the matter may have to be referred for consideration under another College process if appropriate
37. The student will be notified in writing normally within 8 working days of the meeting of the decision of the Head of School, with reasons, and any actions to be taken.

38. A copy of the decision letter and any associated documentation will be retained and a copy kept by the Head of School.

### **Level 3 - Critical, and/or persistent or cumulative concerns**

39. Critical and/or persistent or cumulative concerns about a student's Professional Suitability will normally be dealt with under Level 3. Examples of such concerns include but are not limited to conduct leading to the termination of a placement, exposing service users to risk of harm, commission of a criminal or academic offence, and failure to adequately address the provisions of an action plan.
40. The student will be informed in writing that there is a concern about their Professional Suitability and of the nature of the concern and that the matter is to be dealt with under Level 3. The student will be provided with a copy of this Procedure.
41. The student will be invited to a hearing before a Professional Suitability Panel. At least 10 working days in advance of the hearing the student will normally be given in writing:
- notice of the date, time and place of the hearing
  - details of the Professional Suitability concern
  - a copy of the investigation report
  - a reminder of the right to be accompanied and/or represented at the Hearing as detailed under paragraph 21
42. A member of staff appointed by ELT, will act as Secretary to the Professional Suitability Panel. They will act as a neutral observer at the panel hearing and will provide advice and guidance on procedure. A note-taker may also be in attendance at the hearing.
43. The student may submit to the Secretary to the Professional Suitability Panel, at least five working days in advance of the hearing date, a written statement in response to the concern to be considered at the hearing.
44. Notice of any witnesses to be called by the student and/or the College's Case Presenter at the hearing must be given in writing to the Secretary to the Professional Suitability Panel at least 2 working days in advance of the date of the hearing together with a written statement of the contribution that each witness will make. The Secretary to the Professional Suitability Panel will provide a copy of each party's witness notice and statements to the other party.
45. A Professional Suitability Panel will be convened by ELT and will normally consist of:
- A member of ELT or Head of School (who will act as Chair)
  - One member of academic staff from the Department in which the student is based
  - One independent member of academic staff from another Department within the College, and
  - A member of the relevant profession and external to the College may also attend
46. All Professional Suitability Panel members will be impartial and will have not normally had prior involvement in the case.
47. Whilst the order and procedure to be followed at a hearing before a Professional Suitability Panel will be at the discretion of the Chair and will comply with the principles of natural justice, the following will normally occur:

- A member of College staff appointed to act as Case Presenter (usually the Investigating Officer) will outline the Professional Suitability concern and the evidence in support of the concern.
  - The student may respond at this stage.
  - The Case Presenter may call and question witnesses.
  - The student may question these witnesses.
  - The student will present their case.
  - The student may call and question witnesses.
  - The Case Presenter may question these witnesses.
  - The Case Presenter will sum up.
  - The student may reply.
  - The members of the Professional Suitability Panel may question any witness at any time during the hearing and may recall the parties or witnesses at any time.
  - The Chair may adjourn or postpone the hearing where it is reasonable to do so. The Professional Suitability Panel may ask for specific enquiries to be undertaken, additional witnesses to be called and/or additional information to be presented. Minutes will be taken of the proceedings.
48. The Professional Suitability Panel will retire in private to deliberate. The Secretary to the Professional Suitability Panel may retire with the Panel in order to provide procedural advice but will play no part in the Panel's decision-making. Matters will be determined by the Professional Suitability Panel on the balance of probabilities. If a consensus of decision is not achieved, the Chair will have the casting vote.
49. The Professional Suitability Panel will determine whether or not the student's Professional Suitability is impaired, or may become impaired, and any actions to be taken. Such actions may include (but are not limited to) one or more of the following outcomes:
- no action be taken
  - support arrangements and/or reasonable adjustments be put in place for the student
  - an action plan be drawn up
  - the matter be referred to an earlier Level
  - the matter be referred for consideration under another College process
  - a written warning be given to the student
  - the student be withdrawn from placement or other work-based activity or related learning activity
  - a recommendation be made to ELT that a professional award is withheld or withdrawn
  - a recommendation be made to the ELT that the student be suspended from the programme for a specified period of time (with or without conditions)
  - a recommendation be made to the ELT that the student be expelled from the College
  - a recommendation be made to the ELT that the student be expelled from the College and not be permitted readmission on a professional programme in the future
50. The student will be notified in writing normally within 8 working days of the date of the hearing of the decision of the Professional Suitability Panel, with reasons, and any actions to be taken (although the student and the Case Presenter may also be notified verbally in advance of this time).
51. The hearing (and any subsequent meeting held to review progress and/or to provide additional support) will be formally recorded with one copy sent to the student, one copy retained and a third copy sent to the Head of School.

## **Employment references**

52. The College regularly provides student-related references to third parties (such as educational institutions and potential employers).
53. When providing a reference in a professional context (for example, in connection with potential employment in a profession or admission on to a professional programme of study at another institution) for a student who has been subject to this Procedure at Level 3, the College will refer to the Professional Suitability concern raised against the student, the associated circumstances, and the decision and outcome of the Level 3 proceedings. Students will be actively encouraged to contact the employing organisation and discuss full details of the case with the prospective employer.
54. The College will not normally refer to issues arising in connection with Professional Suitability proceedings under Levels 1 and 2 when providing references requested in a professional context, but reserves the right to do so when it considers it appropriate to do so (for example, in a matter involving issues of safeguarding and/or client/service-user safety).
55. The College will not normally refer to issues arising in Professional Suitability proceedings under Levels 1, 2 or 3 when providing references for students in non-professional contexts unless there are legitimate and serious concerns about possible risk to others.

## **Appeals**

56. Students may raise a written appeal to the via the College's Complaints Procedure against any neutral suspension or exclusion imposed or against the outcome of Levels 2 and 3 of this Procedure, within 10 working days of the date of the decision letter. The grounds for appeal against the outcome of Levels 2 and 3 are:
  - the College has failed to follow the procedure set out in this Procedure
  - the decision is irrational and/or a disproportionate outcome has been imposed
  - material new information/evidence is available which was not reasonably available before
57. The decision of the panel, will take effect and remain in force until such time as it may be changed by the appeal outcome.
58. The College's Complaints Process will consider the appeal submission and determine whether there are valid grounds to proceed, and the student will be informed accordingly.
59. Where valid grounds have been determined, the student will be invited to submit additional evidence within a specified timeframe for further consideration.
60. The Complaint's process and designated staff will determine the appeal, and will make one of the following decisions:
  - dismiss the appeal (in whole or part) and/or
  - uphold the appeal (in whole or part) and (as appropriate):
    - refer the matter back to an earlier level of this Procedure for reconsideration
    - refer the matter back to an earlier level of this Procedure for fresh consideration
    - impose an alternative outcome
    - confirm the original decision

61. The outcome of the appeal will be notified to the student in writing, with reasons, normally within 8 working days of determination of the appeal.
62. The decision will be final and will conclude this Procedure. A 'Completion of Procedures' letter will be issued to the student. Further information on procedures for external and independent review can be obtained from the Office of the Independent Adjudicator for Higher Education website [www.oiahe.org.uk](http://www.oiahe.org.uk).