



Newbury College

Policy number:	LS209	Originator:	Teaching and Quality Manager
SharePoint:	Policies and Procedures: Learner Services		
EIA Meeting Date:	17/12/2019	EIA Required:	YES
Approved by:	SMT	Date:	08/01/2020
Review Frequency:	Annual		
Review Date:	September 2020		
External Web Site appropriate:	NO		
Linked policies/College documents:	Student Code of Conduct Policy and Procedures, Assessment Policy, \ Assessment Appeals Procedure; Disclosure and Barring Check for Learners Policy and Procedure; Single Equality Duty and Procedure; Guidelines on setting and maintaining professional boundaries; Safeguarding Policy, PREVENT Strategy;		
Summary available:	NO		

Fitness to Practise Policy (Students)

**This document can be made available in other formats,
on request**

Purpose and summary:

Newbury College is contractually required to meet the expectations of its awarding bodies for both FE and HE provision. This includes meeting the requirements of statutory professional bodies and attaining the standards required to practise under license. The College is required to ensure that students completing qualifications that lead to professional practice maintain good health, character, discipline and conduct and that this is maintained throughout the programme of study. This fitness to practise is observed from interview and enrolment, through induction to registration and the stages of completing the agreed studies. Students are expected to observe the College Code of Conduct throughout all aspects of their studies. This Fitness to Practise policy is focussed on meeting the expectations defined by the professional standards required for placements leading to progression and employment in the professional area.

Some programmes of study require external placements and/or work based practice and the College has a duty to safeguard both the student and the public to ensure that any risk of harm is minimised.

Where relevant, 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 statement confirming that an individual is a safe and suitable entrant to the given profession and is 'Fit to Practise'.

An offer of a place to study on some programmes of study offered by the College may be conditional upon specified evidence showing that the applicant is fit to practise.

Curriculum Managers 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.

Assessment of each student's 'Fitness to practise' is active throughout the professional programme of study. If there are any concerns over an individual's fitness to practise, the College is required to investigate and address the issue.

Newbury College may be required to report issues of fitness to practise to the relevant professional body and, if applicable, to the student's employer / work placement and the Disclosure and Barring Service (DBS).

Students must declare any issues of fitness to practise, (ongoing issues, issues that have been dealt with and investigated or issues that arise within the duration of the programme of study) to the College and the relevant associated professional body on registration.

Newbury College is required to manage 'Fitness to Practise' issues that may arise and which may impact upon a student's suitability to continue with their programme of study or their recommendation for a license to practise in a particular profession. To address issues surrounding a student's ability to meet the 'Fitness to Practise' expectations of different statutory bodies, the College calls a panel comprising the Curriculum Manager, a teacher qualified within the agreed sector and a chairperson from the College Senior Management Team. Professional practitioners may also be included in the panel where more specialist insight is required. Where a student is enrolled by a partner university or organisation the Fitness to Practise Policy of that organisation will be followed.

Newbury College expects that issues of Fitness to Practise are investigated promptly upon identification (within 48 hours) and completed within a timeframe agreed by the panel. The length of the investigation may vary dependent upon the complexity of the issue(s) raised. For straightforward issues, the investigation should be completed within 10 working days and the panel should agree the outcome within a further 5 working days. More complex issues should be allocated an initial 10 days investigation after which the time frame for further investigation should be agreed.

Newbury College is required to consider circumstances where teachers, work based placement staff, or other appropriate individuals, have concerns regarding a student's fitness to practise with regard to:

- Breaches of professional responsibility
- Breaches of the Newbury College 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
- Conduct contrary to the work placement code of conduct.
- Conduct contrary to the employer's code of conduct where employment is a requirement of the programme of study.
- Inappropriate behaviour

The above list is not exhaustive.

Students will be informed where concerns are raised regarding their fitness to practise. The student will be informed of the concerns and the procedure to be followed. Students will have access to the evidence [except where such evidence may be in contravention of the Data Protection Act 1998], and will be able to respond formally to those concerns.

Information from the investigation will be treated as sensitive and confidential and in line with the Data Protection Act (1998). Only statistical data will be published regarding Fitness to Practise issues.

Students may obtain support and advice from the Learner Services team.

Students are entitled to be accompanied by a friend, colleague or representative at all stages of the procedure.

Newbury College will amend the Fitness to Practise policy during an academic year where there are legislative changes or changes to professional body requirements or other update requirements.

Procedure to be followed when concerns about Fitness to Practise are raised:

Newbury College staff or work placement staff should formally report in writing any concerns related to a student's fitness to practise to the Course Leader who in turn will inform the Curriculum Manager (or a nominee).

The Curriculum Manager (or nominee) in consultation with a member of the Senior Management team will decide if immediate action needs to be taken. This may include:

- Assessing if there are any immediate risks to staff, students, clients or visitors.
- Referring the student to appropriate support services.
- Suspension of attendance at placement.
- Appointment of an Investigating Officer (A suitably qualified member of Newbury College Management or Staff) to formally investigate the allegations and to report to the Curriculum Manager (or nominee).
- Referring the matter for consideration under the Code of Conduct Disciplinary Procedures.
- Referring the matter for consideration by an appointed Fitness to Practise Panel.
- Recommending suspension from the College until the issues are investigated and addressed/outcome determined.

The above list is not exhaustive and more than one action may be applied to meet specific individual circumstances.

All action taken must be formally recorded in the student's file on the MIS system (with a rationale for the decision) and written notification of any recommendation sent to the student.

Exceptional circumstances – misconduct within the practise/placement area

The Course Leader, Curriculum Manager and work based placement supervisor or mentor may, in exceptional circumstances, suspend a student immediately from work based placement settings. Such action must be notified to the Curriculum Manager (or nominee) at the earliest opportunity and no later than 24 hours after the event.

Exceptional circumstances, although the list is not exhaustive may include:

- Acts of violence or aggression by the student.
- The student's behaviour giving cause of concern for the safety of others or themselves.
- Theft or damage to property whilst on placement.

The Curriculum Manager (or nominee) must notify the Student Services Manager and Vice Principal - Students and Curriculum with details of the incident and, if applicable, recommend that the student should also be suspended from academic study pending Fitness to Practise consideration.

Students should be advised that suspension from the placement and/or the College is not at this stage a disciplinary sanction but is to allow time for an appropriate investigation.

Operation of the 'Fitness to Practise' Panel

The Vice Principal - Students and Curriculum (or nominee) will convene a Fitness to Practise 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 practise.

In scheduling the meeting of the Fitness to Practise Panel, the Vice Principal - Students and Curriculum (or nominee) should give consideration to other relevant factors, for example the student's overall progression and profile, as well as the impact on their studies of any suspension.

The student should be given a reasonable period in which to seek advice and prepare their response. In straightforward issues, there should be a period of 10 working days prior to the meeting to facilitate this. The student may seek advice from the Student Services team.

The Vice Principal - Students and Curriculum will:

- Appoint an investigating officer.
- Set the timeframe for the investigation (usually 10 working days) and the panel meeting (usually within a further 5 working days).
- Arrange for the Investigating Officer to present information to the panel.
- Inform the student of the allegation/issue that is subject to consideration by the Panel.
- Invite the student to make a written or spoken representation to the Panel.
- Advise the student that they have the opportunity to invite witnesses to attend the Hearing to substantiate their representation.
- Advise the student 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.
- Advise the student that they can obtain independent advice from Newbury College Student Services Team.
- Provide a copy of the papers for consideration by the Fitness to Practise Panel to the student and the Panel unless this contravenes the Data Protection Act (1998).
- Inform students and the Fitness to Practise Panel of the names and roles of the attendees including, if applicable, the names of any witnesses that may be interviewed by the Panel.
- Chair or nominate a chair for the 'Fitness to Practise' Panel meeting.

The investigating officer will:

Normally interview the student and relevant parties, collate relevant evidence and produce a written report of their findings.

The Fitness to Practise Panel will consider the evidence with regard to:

- Safeguarding vulnerable groups
- Child protection and safety
- Public protection and safety
- Professional and College codes of conduct
- Access to the relevant profession
- The student's progression on the programme
- Potential risk to Newbury College, staff and students and any other relevant individuals.
- Determine whether the issue should be referred to existing policies and procedures.

Summary notes will be made of the Fitness to Practise Panel meeting and the decisions made by the Panel and will be made available upon request to the student concerned.

The Panel will reach a decision and make recommendations based upon all the available evidence.

If necessary, the Chair may suspend the deliberations of the Panel and reconvene pending further information.

The Fitness to Practise Panel will decide whether the student's fitness to practise is impaired or not and will make suitable recommendations.

Recommendations available to the Fitness to Practise Panel can include:

- No formal warning or sanction is issued.
- Refer the matter to other Newbury College Procedures such as Student Code of Conduct Disciplinary Procedure if there is evidence of misconduct but the student's fitness to practise is not impaired.
- Formal monitoring of the student's progress for a specified period of time, with a clear action plan and, if necessary, additional support.
- Suspension or exclusion from the programme of study / Newbury College for a specified period.
- Expulsion or exclusion for a specified period from the programme of study / Newbury College.

The Chair of the Fitness to Practise 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, work placement 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.

Newbury College works in partnership with employers in upholding professional standards and will liaise with them in the first instance regarding the reporting of Fitness to Practise findings to the relevant professional body. However, Newbury College reserves the right to make referrals directly if this is considered appropriate.

Where the Fitness to Practise Panel recommend expulsion or fixed term exclusion from the programme and/or the College, this will be referred by the Chair of the Fitness to Practise Panel with the supporting notes and evidence to the Vice Principal - Students and Curriculum where a Chair of the Panel has been appointed in their place, for consideration and confirmation.

The decision of the Vice Principal - Students and Curriculum will be notified to the Panel and to the student.

Appeals:

The Learner Services Manager will advise the student about the appropriate appeals procedure. The majority of appeals are likely to be Code of Conduct Disciplinary Procedure Appeals, Assessment Appeals or Complaints Procedure Appeals.

Students should be made aware that disagreement with the decision of the Fitness to Practise Panel is not in itself sufficient reason to appeal and of the need to provide additional and reasonable evidence to support that appeal.

The Vice Principal - Students and Curriculum appoints a Fitness to Practise Appeals Officer who will review all evidence to consider whether the documentation of the case suggests that the decision of the original Fitness to Practise Panel was reasonable and the procedure was followed correctly.

The Fitness to Practise Appeals Officer may:

- Amend the decision of the original Fitness to Practise Panel
- Uphold the decision of the original Fitness to Practise Panel
- Refer the case back for reconsideration
- Defer the decision pending further information and advice
- Reject the Appeal.

The decision and any recommendations of the Fitness to Practise Appeals Panel will be notified to the student and to the original Fitness to Practise Panel.

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

When the student has exhausted the Newbury College procedures, the student will be issued with a completion of procedures (COP) letter.

Students who remain dissatisfied with the final outcome of their Appeal and believe that Newbury College has failed to follow the Fitness to Practise 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/>

The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. Newbury 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 Fitness to Practice procedure 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 not upheld, we will issue you with a Completion of Procedures Letter automatically. 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>.

Date: April 2016

Reviewed: December 2019

Review Date: September 2020

JH\SM\SP\LS\FITNESSTOPRACTISE\19.10.18

Appendix 1

Fitness to Practise Policy Terms of Reference

Context:

Level 3 Award in Education and Training

Level 4 Certificate in Education and Training

Level 5 Diploma in Education and Training

Introduction

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. Government legislation also requires safeguarding and 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 practise.

All decisions related to a student's Fitness to Practise are made with due regard to:

DfEE Circular 4/99, Physical & Mental Fitness to Teach of Teachers & Entrants to Initial Teacher Training (May 1999)

TDA (2004) Able to Teach Guidance for providers of Initial Teacher Training

Professional Standards for Teachers and Trainers in Education and Training – England, 2014: The Education and Training Foundation.

Newbury College Code of Conduct

Newbury College Single Equality Duty Policy

Newbury College Assessment Policy

All other relevant Professional and / or Statutory Body requirements which may be appropriate e.g. DBS, Safeguarding, PREVENT etc.

2. The Fitness to Practise Panel – Membership

The Chair of the Panel will be the Vice Principal - Students and Curriculum or their nominee e.g. the Curriculum Manager for Education and Training.

Panel membership will reflect the nature of the programmes related to the issue:

The Curriculum Manager for the Education and Training Curriculum.

Course Leader: Education and Training

Teaching and Quality Manager (Unless they are the Course Leader in which case another suitably qualified Manager may be called upon).

By exception: An awarding body representative may be invited to join the panel.

Other relevant individuals such as the employer or Work Placement Supervisor unless they raised the concern.

The Curriculum Manager will be responsible for ensuring appropriate external

representation. The Panel will meet once a year to review policy and consider any issues or

new legislation that inform revision of this policy. However the Panel may meet more frequently to consider changes in policy, procedure and legislation if necessary.

The Panel will be quorate with at least four members including:

- **Chair** –Teaching and Quality Manager or Vice Principal Students and Curriculum
- **2 Academic Staff Representatives** (1 of whom should be from a different area of study)
- **1 Independent Practise/Service Representative**

Appendix 2

Fitness to Practise Policy Terms of Reference

Context:

Level 4 Higher National Certificate in Mechanical Engineering.

Level 4 Higher National Certificate in Electrical and Electronic Engineering.

Level 5 Higher National Diploma in Mechanical Engineering.

Level 5 Higher National Diploma in Electrical and Electronic Engineering.

Level 6 BEng (Hons) Engineering Design apprenticeship

Introduction

Engineers and those training to become Engineers are required to have and maintain exacting standards to ensure the safety of themselves and others through their engineering tasks and responsibilities. The health, education, safety and welfare of those working in the Engineering sector may impact upon the lives of others and therefore may influence decisions related to an individual's fitness to work and study in the sector and their membership of the sector's professional bodies. Government legislation also requires safeguarding, child protection, PREVENT and Health and Safety to be of primary concern when making decisions in relation to a student's participation in programmes of study. This includes consideration of standards of conduct and performance, discipline and fitness to practise.

All decisions related to a student's Fitness to Practise are made with due regard to:

Development of the skills and knowledge to meet the standards required for professional recognition by the Engineering Council and relevant related professional memberships such as IED membership.

Newbury College Code of Conduct

Newbury College Equal Opportunity Policy

Newbury College Assessment Policy

All other relevant Professional and / or Statutory Body requirements which may be appropriate e.g. DBS, Safeguarding, PREVENT etc.

2. The Fitness to Practise Panel – Membership

The Chair of the Panel will be the Vice Principal - Students and Curriculum or their nominee e.g. the Curriculum Manager for Technology

Panel membership will reflect the nature of the programmes related to the issue:

- The Curriculum Manager for Technology.
- Course Leader: level 4 Higher National Certificate in Engineering or level 5 Higher National Diploma in Engineering
- Teaching and Quality Manager.
- By exception: An awarding body representative may be invited to join the panel.
- Other relevant individuals such as the employer or Work Placement Supervisor unless they raised the concern.

The Curriculum Manager will be responsible for ensuring appropriate external representation.

The Panel will meet once a year to review policy and consider any issues or new legislation that inform revision of this policy. However the Panel may meet more frequently to consider changes in policy, procedure and legislation if necessary.

The Panel will be quorate with at least four members including:

- **Chair** – Teaching and Quality Manager or Vice Principal Students and Curriculum
- **2 Academic Staff Representatives** (1 of whom should be from a different area of study)
- **1 Independent Practise/Service Representative**

The Panel will meet once a year to review policy and consider any issues or new legislation that inform revision of this policy. However the Panel may meet more frequently to consider changes in policy, procedure and legislation if necessary.

The Panel will be quorate with at least four members including:

- **Chair** – Vice Principal - Students and Curriculum (or nominee)
- **2 Academic Staff Representatives** (1 of whom should be from a different area of study)
- **1 Independent Practise/Service Representative**

Appendix 3

Fitness to Practise Policy Terms of Reference

Context:

Level 4 Higher National Certificate in Health Care Practice

Level 5 Higher National Diploma in Health Care Practice

Introduction

Health Care Practitioners and those training to become health care practitioners are required to have a high standard of physical and mental health [subject to any DDA exemption] to enter or remain in the health care professions. The health, education, safety and welfare of those working in health and care settings are important in supporting the wellbeing and outcomes of those in care settings and therefore impact upon an individual's fitness to work in the sector. Government legislation also requires safeguarding and child protection to be of primary concern when making decisions in relation to a student's continued participation in health and care programmes of study. This includes consideration of standards of conduct and performance, discipline and fitness to practise.

All decisions related to a student's Fitness to Practise are made with due regard to:

The Health Care Professions Council's guidance on fitness to practise: <http://www.hcpc-uk.co.uk/complaints/fitnesstopractise/>

Nursing and Midwifery Council's fitness to practise guidance

<https://www.nmc.org.uk/concerns-nurses-midwives/dealing-concerns/what-is-fitness-to-practise/>

Skills for Care Code of Conduct for Healthcare Support Workers and Adult Social Care Workers in England <https://www.skillsforcare.org.uk/Documents/Standards-legislation/Code-of-Conduct/Code-of-Conduct.pdf>

Newbury College Code of Conduct

Newbury College Equal Opportunity Policy

Newbury College Assessment Policy

All other relevant Professional and / or Statutory Body requirements which may be appropriate e.g. DBS, Safeguarding, PREVENT etc.

2. The Fitness to Practise Panel – Membership

The Chair of the Panel will be the Vice Principal - Students and Curriculum or their nominee from the College management Team e.g. the Curriculum Manager for Care and Foundation Learning.

Panel membership will reflect the nature of the programmes related to the issue:

- The Curriculum Manager for Care and Foundation learning.
- Course Leader: Health Care Practice for England
- Teaching and Quality Manager.
- By exception: An awarding body representative may be invited to join the panel.
- Other relevant individuals such as the employer or Work Placement Supervisor unless they raised the concern.

The Curriculum Manager will be responsible for ensuring appropriate external representation.

The Panel will meet once a year to review policy and consider any issues or new legislation that inform revision of this policy. However the Panel may meet more frequently to consider changes in policy, procedure and legislation if necessary.

The Panel will be quorate with at least four members including:

- **Chair** – Vice Principal - Students and Curriculum (or nominee)
- **2 Academic Staff Representatives** (1 of whom should be from a different area of study)
- **1 Independent Practise/Service Representative**

Appendix 4

Fitness to Practise Appeals Panel Membership

Chair – Vice Principal - Students and Curriculum (or Nominee)

Adviser – Student Services Manager

Staff or Academic Representatives

Quorum

Chair

Adviser

2 other panel members

The Appeal Panel (s) will be chaired by the Vice Principal - Students and Curriculum (if not the Chair at the first Panel meeting) or the Principal.

Members of the Fitness to Practise Appeals Panel will be selected from an area unconnected with the programme of study of the appellant. Decision making members of the Panel will have no connection or prior involvement with the case or the decision of previous panels.

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

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

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

Summary notes of proceedings will be taken.

Newbury College Fitness to Practise Appeals Panel will meet when required.

The Chair will act as the final arbiter in the matter after considering the opinions of all panel members.

Appendix 5

Fitness to Practise Hearing Protocol

1. The Chair will open the Hearing and summarise the roles of all parties present, specify that staff for the purpose of the Hearing are independent and clarify the purpose of the investigatory Hearing.
2. The Chair will inform the student of their right to be accompanied by a friend should they arrive unaccompanied.
3. The Chair shall confirm to the parties the substance of the issue(s) of Fitness to Practise.
4. The Chair will ask the presenting officer to outline the details and the supporting evidence of the case to all present and to introduce any witnesses.
5. The Panel may ask questions of the presenting officer and witnesses at any time.
6. Through the Chair, the students may ask questions of the presenting officer and witnesses.
7. The Chair will ask the student to respond to the issues of Fitness to Practise, referring to any evidence provided and to introduce any witnesses.
8. The Panel may ask questions of the student and witnesses at any time.
9. Through the Chair, the presenting staff member may ask questions of the student.
10. After hearing following no further questions from the Panel, the Chair will ask the presenting staff to summarise their case.
11. The Chair will ask the student to summarise their case.
12. The Chair will then adjourn the Hearing and the student and presenting officer will leave for the Panel to consider the evidence. 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.
13. 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.
14. The Chair will announce their decision, either by inviting all parties to return or in writing. The outcome of the Hearing and the reason for the decision will be confirmed in writing within five (5) working days of the decision.
15. The student will be advised if the decision of the Panel will be reported to the relevant professional body and if applicable the Independent Safeguarding Authority.
16. The student will be notified of the appropriate appeals procedure.
17. If the student considers that the case has not been considered in line with the policy and procedures they may take this matter forwards to the Office of the Independent Adjudicator for HE: <https://www.oiahe.org.uk/> or by writing to

