



Fitness to Practice Procedure

1 Introduction

This procedure applies to students studying for an award leading to registration with a professional organisation or who are already registered but continuing a course of study (the term “professional organisation” includes statutory or regulatory bodies and the term “student” includes prospective students or applicants). The professional standards to be applied in this procedure will be those contained in the codes of conduct set down by the professional organisation which accredits or approves the course together, where relevant, with relevant policies or code of conduct issued by the College. This procedure applies to all students on London School of Commerce & IT courses.

This document is designed to outline a consistent and fair procedure for addressing “Fitness to Practice” across the College subject to grounds for referral and sanction as defined by the relevant professional organisation. Advice should be always sought from the professional organisation at the outset of this procedure, with clear reference to the appropriate code of conduct/requirements.

2 Procedures

2.1 Initiation of the procedure

Any concerns that a student may have breached professional standards or may suffer from a health problem that might prevent admission to the relevant profession must be reported without delay to the Principal, with any available evidence enclosed. Members of the placement providers may also report such concerns to the appropriate staff in the College.

By reference to the appropriate code of conduct or requirements, the Principal may at this point decide that there is no case to answer or that the allegation does not relate to a matter of fitness to practice but should properly be considered under another procedure (e.g. Disciplinary Procedure).

If the student is on a placement as part of their course, the Principal will normally seek the opinion of the person currently responsible for the student, if the alleged action calls into question the student's suitability to continue on this placement, their own safety or that of others.

Once an allegation is received, the Principal shall appoint an appropriate member of staff to investigate the allegation. This person shall prepare a written report, which shall be made available to the Principal, who will make a decision on whether there is a case to answer. The appointed person may interview any witnesses as appropriate, and their report may, if necessary, include signed and dated witness statements. Both the investigation and any resulting hearings should be carried out within a reasonable time.

If the allegation brings into question the student's fitness to practise on the grounds of physical or mental ill health or disability, the student may be referred to an appropriate occupational health professional or other specialist for preparation of a report for consideration by the Fitness to Practise Panel. An individual assessment of whether reasonable adjustments are appropriate will be undertaken in accordance with the Equality Act 2010. If the student elects not to attend or cooperate with such referral, then a subsequent Panel may draw appropriate inferences.

If, in the judgment of the Principal, there is no case to answer, he or she will inform the student in writing as soon as possible upon receipt of the report. If, in the judgment of the Principal, there is a case to answer, the Principal will convene a formal Fitness to Practise Panel to deal with the case.

The Principal will inform the student in writing of the nature of the allegation which has been made against them, enclosing a copy of this procedure. They may also, if appropriate, inform the professional body that a case has been brought against a potential or existing registrant.

2.2 General provisions for hearings

In reasonable time before the hearing the student will be given copies of any documents to be considered and will be advised of their right to be accompanied by a friend or adviser. The name and details of this companion should be notified to the Chair of the Panel in good time before the hearing.

The Panel will consider the applicable professional code of conduct and/or professional requirements and, where relevant, witness statements. If the student wishes to call any witnesses, they should inform the Chair of the Panel at least 5 days in advance of the date of the hearing. The Panel will also accept any written evidence submitted by the student in advance of the hearing. If the student fails to attend without good reason, a decision will be made in his or her absence.

Normally, the Fitness to Practise panel should consist of:

The Principal or Dean (or Deputy) in the College as Chair, the Course or Programme leader or professionally qualified member of staff from, the same discipline as the student (who has not previously been involved in this matter) and any member(s), including senior external practitioners, as required by the relevant professional body or co-opted by the panel.

It is not appropriate for any member of the panel to have held a formal role with direct responsibility for the student (e.g. personal tutor) and members of the panel with prior knowledge of the student should declare their interest to the Chair of the panel as soon as they are invited to attend the hearing.

The person appointed to investigate the allegation will present their report to the Panel on the day of the hearing.

2.3 Outcome of the Fitness to Practice hearing

At the end of the Fitness to Practice hearing, the student and the student's friend or adviser will be asked to leave the room while the Panel considers the outcome. The decision will be based on the evidence on the balance of probabilities. The outcome agreed by the Panel may be, but is not limited to, one of the following:

- There are no grounds for concern regarding the student's fitness to practise, in which case the matter will be dismissed and the student receives no warning or sanction.

The student's fitness to practice is considered to be impaired, and the student receives a sanction; beginning with the least severe, the sanctions are:

- permit the student to continue the course with appropriate *advice and guidance*;
- permit the student to continue the course but issue the student with a *warning*;
- permit the student to continue the course but require the student to sign a *written undertaking*;
- permit the student to continue the course subject to specified *conditions*;
- *suspend* the studies of the student for a specified time;
- require *any other action* considered appropriate by the Panel to enable the student's successful completion of the remainder of the course;
- recommend that the student's studies on the course leading to a professional qualification be terminated but, if appropriate, permit the student to exit from the programme with an alternative award;
- recommend that the student's studies on course be terminated and that his/her registration as a student of the College should cease.

2.4 Notification of the outcome

If the decision cannot be given on the day, the Chair of the Panel will normally confirm the decision in writing as soon as possible after the hearing. A copy of the letter will be sent to the student's Principal if he or she has not chaired the hearing.

In the event that the Principal has informed a professional body or other outside agency of the College's action under the Fitness to Practice procedure, the Principal will send a copy of this written notification of outcome to this body.

3 The right of appeal

A student may appeal against the findings of the Fitness to Practice panel. An appeal may be made on one or more of the following grounds only:

- that certain evidence was submitted which was not considered by the panel;
- that evidence which was not previously submitted, either because it was not available or because the appellant was for valid reasons unwilling to submit it, has become available; (it is only in exceptional circumstances that evidence which was available previously but not submitted will be allowed at a subsequent appeal);

- that a new witness has expressed a readiness to give evidence, where that witness had either not expressed such a willingness before, or where that witness was not known to be in possession of any material evidence;
- that a procedural irregularity is deemed to have occurred before or during the hearing which may have affected the findings of the panel. Appeals in this category must specify the nature of the irregularity which is thought to have occurred.
- That the decision is perverse or manifestly against the weight of the evidence.

Appeals should be made in writing to the Principal within 10 days of the notification of the decision of the Fitness to Practice panel. The Principal will then decide whether the appeal meets any of the grounds listed above.

If the decision is taken that there are no grounds for appeal, the student will be informed in writing as soon as possible after receipt of the appeal by the College.

If it is identified that there are grounds for appeal, the Principal will take the appropriate action according to the outcome of the Fitness to Practice panel. This appeal may take one of two routes:

- (i) For outcomes short of a recommendation of permanent exclusion, the case may be returned to the original panel for further consideration, following the procedures described in section 2.2. If the grounds of appeal are covered by (iv) or (v) above, and relate to the conduct of the panel, the Principal may be required to form a new panel according to the same procedures, but with a different membership.
- If the outcome is a recommendation of permanent exclusion, an Appeals Panel, whose members were not members of the original Fitness to Practice Panel, will be constituted.

Normally the Appeals Panel will consist of the Dean, Principal or other member of Senior Management as Chair,

Members: a professionally qualified member of staff from the same discipline as the student and any member(s), including senior external practitioners, as required by the relevant professional body or co-opted by the panel

The decision of the Appeals Panel will be notified as soon as possible following the procedures described in 2.4 above.

4 Office of the Independent Adjudicator for Higher Education

A student may complain about the Appeal Panel's decision (or any decision short of the Appeals Panel that effectively brings the internal process to an end) to the Office of the Independent Adjudicator for Higher Education (OIAHE). Details of how to complain can be found at: <http://www.oiahe.org.uk/>

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