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## Fitness to Study

# Policy and Procedures

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### Quality Assurance Benchmarking

This policy and procedure maps to the following external quality assurance frameworks:

### Document History

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## **I. POLICY STATEMENT**

West Dean College of Arts & Conservation (“the College”, “West Dean College”, “West Dean”) acknowledges its duty of care towards its students and staff, and the importance of supporting the health and wellbeing of its students in relation to their academic progression and their wider student experience. This Policy forms part of the College’s commitment to promoting a safe, healthy and supportive environment in which to learn, study and work.

The College recognises that medical, psychological, behavioural or emotional problems or a student’s circumstances may affect a student’s fitness to study.

The aim of this document is to give effect to these principles and obligations, and to provide a procedural framework through which possible concerns can be addressed.

## **2. DEFINITIONS & INTERPRETATIONS**

2.1. **Fitness to study’** means:

2.1.1. A student’s fitness to:

- i) start a particular programme of study; or
- ii) continue with their current programme of academic study; or
- iii) return to their current programme of academic study; and

2.1.2. A student’s ability to meet:

- i) the reasonable academic requirements to the programme of academic study; and
- ii) the reasonable social and behavioural requirements of a student of the College without having an unacceptably detrimental effect on the health, safety, welfare and/or education experience of the student, other students, or members of staff.

2.2 **‘Academic study’** includes (but is not limited to), directed and independent learning, all work-based learning, voluntary work, trips and/or study visits.

2.3 **‘Suspension’** means a decision that an individual student shall be excluded from the College’s premises, including student accommodation, and/or use of its facilities, or part thereof as a precaution.

2.4 **‘Intermission’** means an authorised absence from the College and a temporary discontinuance of the student’s studies.

2.5 **‘Applicant’** means any person who has applied or is considering applying to study on a programme at the College or a person to whom an offer (whether conditional or unconditional) of a place to study at the College has been made, whether or not that offer has been accepted.

2.6 **'Student'** means any person who has accepted a place and enrolled on a programme of study delivered by or on behalf of the College, regardless of the mode of delivery or duration. This includes short courses.

2.7 **'College nominee'** means a person nominated by the Director of Education

2.8 **'A friend'** means a friend or representative of the student (but not a qualified solicitor or barrister), provided such person is a student of the College, member of staff or a member of the student's family.

2.9 **'Senior staff'** means the Chief Executive, Director of Education, Heads of School or the Academic Registrar<sup>1</sup>.

### **3. GENERAL PROVISIONS**

3.1. Fitness to study is separate from fitness to practise

3.2. The College will take into account relevant legislation such as GDPR, the Mental Health Act, the Mental Capacity Act, the Human Rights Act and the Equality Act when making decisions under these regulations.

### **4. EMERGENCIES**

#### **4.1. Immediate Risk**

4.1.1. Nothing in this policy and in these regulations should distract from any acute or dangerous situations where it is believed that a student's behaviour presents an immediate risk to themselves or others. In such circumstances the emergency services should be called by dialling 9-999. The Duty House Officer must also be notified so that emergency services can be directed to the right location.

#### **4.2. Suspension**

4.2.1. Where concerns about a student's fitness to study have been raised, senior staff may suspend a student for a period of time if they consider:

- i) it would be in the best in interest of the student; or
- ii) it would be in the best in interest of another person; or
- iii) allowing the student to remain on the premises would breach the College's duty of care to the student or others; or
- iv) a student refuses to cooperate with proceedings under these regulations.

4.2.2. Suspension means that the student shall be excluded from all College premises. The student may seek support from the Student Counsellor or a Student Representative,

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<sup>1</sup> Should the nature of the concern make the objectivity of a Senior Staff member difficult, another suitable member of staff will be appointed by College Chief Executive instead.

but must make an appointment (on the day of suspension). A student who has not made an appointment will not be admitted to the College's premises.

- 4.2.3. Suspension is precautionary and does not mean that any conclusions have been drawn or that a decision has been reached.
- 4.2.4. A student who has been suspended may:
  - i) ask the Director of Education to review the suspension. Any such request must be in writing and made no more frequently than once a month.
  - ii) ask the Director of Education for temporary permission to attend the College's for examinations, assessments or for submission of coursework or to seek assistance. Such request must be in writing.

### **4.3. Notifications**

4.3.1. Third Parties - The College may consider notifying the student's next of kin and statutory services of concerns raised under these regulations, but will consider relevant legislation and general rights and expectations of confidentiality before doing so.

4.3.2. The Student – The College will notify the student of the duration of the suspension, methods of review and guidance on the return to study process.

## **5. ADMISSIONS**

- 5.1. Any person who has concerns about an applicant's fitness to study may refer the matter for investigation. The procedure under this regulation may be invoked at any time before the applicant has enrolled.
- 5.2. Fitness to study is separate from:
  - i) the academic requirements of the proposed programme of study; or
  - ii) the professional requirements of the proposed programme of study;
- 5.3. No application shall be refused and no applicant shall be prevented from enrolling on the grounds of an applicant's fitness to study, save in accordance with these regulations.
- 5.4. Circumstances that trigger the use of this procedure may include (but are not limited to):
  - i) a third party (for example, a relative, friend, colleague, placement provider, member of the public, medical professional) reports concerns about the student which raises questions about their fitness to study;
  - ii) an applicant has told a member of staff that they have a problem and/or provided information which raises questions about their fitness to study.

- iii) receipt of relevant information or documentation, for example, a needs assessment report or medical report.
- 5.5. To initiate an investigation, a written report should be made directly to the Academic Registrar, who is responsible for initiating the process in the first instance.
- 5.6. Where issues of fitness to study have been raised, the Academic Registrar or Admissions Officer shall approach the applicant and explain to them, in a supportive and understanding manner, that concerns about their fitness to study have been raised.
- 5.7. The applicant should be made aware of:
- i) the reasons fitness to study concerns have been raised; and
  - ii) if appropriate, the risks perceived by the College.
- 5.8. The applicant will be asked to provide, or the College may request further evidence (that may include medical evidence).
- 5.9. The Director of Education will, in conjunction the Registrar consider the concerns and all relevant issues in light of the evidence received.
- 5.10. The Director of Education may decide to:
- i) take no further action;
  - ii) apply an exceptional change to an academic programme of study and/or support arrangements;
  - iii) withdraw the applicant's offer of a place; and/or
  - iv) take any other such actions that are necessary in the view of the Registrar.
- 5.11. An applicant may ask the Academic Registrar to review their decision in light of new evidence the Applicant wishes to have considered. The Registrar may reject a request for a review if no new evidence is provided with the request.
- 5.12. The Director of Education's decision is final.

## **6. CONTINUED FITNESS**

### **6.1. Concerns**

- 6.1.1. Any person who has concerns about a student's fitness to study may refer the matter for investigation. The procedure may be invoked at any time during the student's programme of study.
- 6.1.2. Circumstances that trigger the use of this procedure may include (but are not limited to the following:

- i) a third party (for example, a relative, friend, colleague, placement provider, member of the public, medical professional) reports concerns about the student which raises questions about their fitness to study;
- ii) the student has told a member of staff that they have a problem and/or provided information which raises questions about their fitness to study;
- iii) the student has provided information as part of an application for mitigating circumstances or intermission which raises questions about their fitness to study;
- iv) the student's manner indicates that there may be a condition which is having an adverse impact on their health;
- v) the student exhibits behaviour, which would otherwise be dealt with as misconduct, but which may be the result of an underlying physical or mental health condition;
- vi) the student's academic performance or physical behaviour is not acceptable and this is thought to be the result of an underlying physical or mental health condition.

6.1.3. To initiate an investigation, a written report should be made directly to the School nominee, who is responsible for initiating the process in the first instance and for deciding if the issue should be addressed through the 'Exploratory Interview' or the 'Fitness To Study Panel'. Where; in an emergency; this report is made orally, it should be followed as soon as possible by a written report.

## 6.2. Exploratory Interview

6.2.1. Where minor, emerging or initial concerns about a student's fitness to study have been raised, the School Nominee should approach the student and explain to them, in a supportive and understanding manner, that concerns about their fitness to study have been raised.

6.2.2. The student should be made aware of:

- i) the nature of the behaviour that has caused fitness to study concerns to be raised; and
- ii) if appropriate, the risks perceived by the College.

6.2.3. The student should be invited to a meeting with the School Nominee and a representative. The meeting is led by the School Nominee with another representative acting in a supportive / advisory role. The role of the representative is to help facilitate discussion, give guidance on the support available, provide relevant information and to facilitate later assessment (if deemed necessary).

6.2.4. At the meeting the School Nominee, with the representative, should:

- i) make the student aware of the nature of the concerns that have been raised;

- ii) hear and consider the student's views; and
- iii) explore with the student any explanations for the behaviour that has caused fitness to study concerns to be raised;

6.2.5. At or shortly after the meeting the School Nominee, guided by the representative, should make written recommendations and invite the student to agree to the recommendations.

6.2.6. The recommendations may include:

- i) no further action;
- ii) altering the student's mode of attendance (full time or part time);
- iii) an exceptional change to a programme of study (subject to the consent of the Director of Education) and / or special support arrangements;
- iv) postponing part of the student programme of study (for example, a placement);
- v) to intermit the student's studies for a fixed period or indefinitely;
- vi) a request for additional information to be provided for consideration.

6.2.7. The recommendations must (unless no further action is recommended) include a review meeting to discuss the steps taken by the student and whether the concerns regarding fitness to study have been addressed. The period for the review meeting should be determined as part of the recommendations.

6.2.8. The student may agree to or reject the recommendations;

6.2.9. If the student accepts the recommendations, the School Nominee shall:

- i) notify the Director of Education of the agreed recommendations; and
- ii) make the necessary arrangement(s) to put the recommendations into effect;
- iii) ensure the student is aware of the academic consequences (including any time limits, such as the maximum period of registration, if applicable).

6.2.10. If the student rejects or does not accept the recommendations, the School Nominee shall:

- i) ask the student to provide any reasons for rejecting the recommendations in writing.
- ii) refer the matter to the Director of Education to be considered by the Fitness to Study Panel. The referral must include details of nature of the concerns that have been raised, the Recommendations, the fact the recommendations have been rejected and any reasons given by the student for rejecting the recommendations;

6.2.11. If a student accepts the recommendations, but despite the measure put in place there are still concerns about a student's fitness to study, the School Nominee shall refer the matter to the Director in Education to be considered by the Fitness to Study Panel.

### 6.3. Fitness to Study Panel

6.3.1. If the recommendations have not been successful, or the student does not agree to the recommendations, or the matter is too serious to be dealt with under 6.2 (Exploratory Interview), the matter shall be referred to the Fitness to Study Panel.

6.3.2. The Fitness to Study Panel shall consist of:

- i) The Head of School, who shall be Chair of Panel;
- ii) A representative from Student Support Services;
- iii) A representative from Academic Registry; and
- iv) Such other members as the Chair of Panel appoints from time to time

6.3.3. The Chair of Panel shall appoint a secretary to the Panel and; may if necessary invite such specialist advisers as they consider would be helpful to attend meetings of the Panel.

6.3.4. The student shall be invited to attend a meeting of the Panel to discuss the concerns and all relevant issues. The student will, wherever possible, be given at least 5 days' notice of the meeting. The student shall be entitled to be accompanied by a friend and may also opt to submit his/her information in writing.

6.3.5. The student will be provided with copies of any documents to be considered at the meeting and will be asked to provide copies of any documents they wish the Panel to consider at least 2 days before the meeting.

6.3.6. The Panel and its meetings shall be conducted in accordance with the directions of the Chair of Panel (whether given at a meeting of the Panel or beforehand).

6.3.7. The Panel may call witnesses, institute enquiries, and/or request further medical evidence to assist its deliberations and may adjourn its meetings to another time or place.

6.3.8. The Panel shall endeavour to reach consensus, but in the event that no consensus is reached the Chair of Panel shall make the decision of the Panel having considered the views and advice of the other Panel members.

6.3.9. The Panel may decide to:

- i) take no further action;
- ii) alter the student's mode of attendance (full time or part time)
- iii) apply special academic and /or support arrangements;
- iv) postpone part of the student's course (for example, a placement);

- v) intermit the student's studies for a fixed period or indefinitely;
- vi) terminate the student's registration at the College; and/or
- vii) take any other such actions that are necessary in the view of the Panel.

#### **6.4. Review**

6.4.1. The Panel may at its discretion reconsider its decision in light of any representations the student makes regarding its decision.

6.4.2. A student may ask for a decision to intermit his/her studies or to terminate his/her registration to be reviewed by the Director of Education.

6.4.3. The request for a review must be made in writing within 10 working days of the date the student was notified of the decision. It must be supported by evidence and sent to the Academic Registrar.

6.4.4. The Academic Registrar may dismiss a request for a review that:

- i) Is received late and there is no reasonable explanation why it could not be brought in time, or
- ii) Does not clearly state the grounds on which the request is being made; or
- iii) Does not disclose any reasonable grounds for reviewing the decision; or
- iv) Is entirely without merit.

6.4.5. Unless the request for a review is dismissed, the Director of Education shall consider the request for a review on the basis of the written papers, unless it would assist his/her consideration or otherwise be in the interest of fairness, in which case a hearing shall be convened.

6.4.6. After reviewing the decision of the Panel the Director of Education may:

- i) Affirm, set aside or vary any decision reached;
- ii) Refer the matter, or any part of it or any decision to the Panel for further consideration.

6.4.7. The Director of Education's decision is final.

### **7. APPEALS PROCEDURE**

7.1. A student may, within 5 working days of the date of notification, appeal the decision reached by the Fitness to Study panel on the following grounds:

- i) There has been a procedural irregularity;
- ii) Availability of further material evidence which could not reasonably have been expected to have been submitted for consideration by the panel.
- iii) The decision was unreasonable and/or the outcome was disproportionate.

- 7.2. In exceptional circumstances the College may consider allowing an appeal outside of the stated time-limit, for example if there is evidence the student is hospitalised or sectioned at the time the notification was sent.
- 7.3. Any request for an appeal must set out the grounds for appeal and must be submitted in writing to the Academic Registrar. On receipt of the request for appeal, the Registrar will consider the request and determine whether or not it discloses valid grounds for appeal. If the Academic Registrar determines that grounds for appeal have not been disclosed, they will inform the student in writing of this and the Procedure will be exhausted.
- 7.4. If the Academic Registrar is satisfied that one or more valid grounds for appeal are disclosed, the matter will be passed to the Director of Education (or in the absence of the Director of Education an impartial member of the College's Senior Management Team nominated by the Director of Education) to determine the appeal substantively. The Director of Education (or nominated member of staff) will write to the student inviting him/her to submit full written representations in connection with the appeal together with any evidence upon which the student wishes to rely. The appeal will be considered on paper unless the Director of Education (or appointed nominee) deems that exceptional circumstances exist that an appeal hearing should be held. An appeal hearing will be arranged within 10 working days and the panel will comprise:
- i) Head of School (or nominated member of staff)
  - ii) Academic Registrar
  - iii) Panel Secretary
- 7.5. At the hearing the student or the student's representative will explain his or her case and any special circumstances which may exist.
- 7.6. The panel will review the case, taking into account the original fitness to study decision and the student's representations from the appeal hearing
- 7.7. Written confirmation of the decision will be sent to the student within 5 working days after the hearing. The panel's decision is final and there is no further right of appeal under this Procedure or any other College processes and procedures.

## **8. OFFICE OF THE INDEPENDENT ADJUDICATOR**

- 8.1. Following written notification of the final outcome of this Procedure, the College will provide to the student a Completion of Procedures letter which confirms that the College's internal procedures have been exhausted.
- 8.2. Should students remain dissatisfied with the outcome they may refer the matter to the Office of the Independent Adjudicator for Higher Education (OIA). The OIA

provides an independent scheme for the review of unresolved student complaints and appeals. Students have 3 months from the date of issue of the Completion of Procedures letter to refer the matter to the OIA. Students should ensure that they familiarise themselves carefully with the requirements. <http://www.oiahe.org.uk/>

## **9. RETURN TO STUDIES**

- 9.1. After an intermission of studies or other period of absence from the College for reasons of ill health, behaviour, recuperation or treatment (whether such an intermission or period of absence came about under this policy or not), a student may wish to return to study (whether to their current course or to another course of study).
- 9.2. The College will only permit a student to return to study if it is satisfied that the student is fit to study.
- 9.3. The decision to permit a student to return to study will be made by the Director of Education having taken advice from the Academic Registrar.
- 9.4. The student should provide or the Academic Registrar may request, confirmation of their ability to resume their studies, which may include medical evidence.
- 9.5. The Director of Education may permit a student to return to study only under certain conditions. The conditions may include (but are not limited to) provisions relating to:
  - i) Mode of attendance (full time or part time);
  - ii) Compliance with a continuing treatment regimen (for example, medication);
  - iii) Regular review meetings (for part or all of the students remaining time at the College);
  - iv) Academic probation.
- 9.6. A student permitted to return to study under conditions must comply with the conditions. Failure to comply with the conditions may give rise to concerns about the student's fitness to study or be considered a disciplinary matter and may cause the student to be suspended under these regulations or under the Student Code of Conduct and Disciplinary Procedure.