

## Fitness to Study Policy

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<b>Date Approved:</b>	August 2018
<b>Approved by:</b>	Principalship
<b>Review Date:</b>	August 2019
<b>Responsible Manager:</b>	Assistant Principal Student Experience
<b>Principalship Lead:</b>	Vice Principal Curriculum & Support
<b>Accessible to Students:</b>	Yes
<b>Applicable to TMC:</b>	Yes
<b>Applicable to UCEN MCR:</b>	Yes
<b>Relevant to Total People:</b>	No
<b>Relevant to MOL:</b>	No
<b>Relevant to Novus:</b>	No

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### INTRODUCTION

The Manchester College and UCEN Manchester (hereafter called 'The College') is committed to supporting students and recognises the importance of their health and wellbeing in relation to their academic progress and College experience. Students are expected to take a proactive part in the process, by managing their own health and wellbeing and engaging with any support, in order to fulfil their academic potential. However there may be instances where a student's capacity to participate fully and satisfactorily in relation to their academic and/or vocational studies may arise. This policy is to be viewed in conjunction and after other policies and procedures have been considered, such as the 'SPAR' Policy and the 'Disciplinary' Policy.

- Students are entitled to reasonable adjustments if they have a special educational need and/or a disability.
- Students with a special educational need are covered by The Children and Family Act 2014.
- The definition of a disability in the Equality Act includes children with long term health conditions, such as, asthma, diabetes, epilepsy, and cancer. Disabled children and young people without SEN are not covered by The Children and Family Act 2014 or the SEN Code of Practice but are covered by provisions elsewhere in legislation, including in the Children Act 1989, the Equality Act 2010 and the Health and Social Care Act 2012.
- Reasonable adjustment means ensuring that there are reasonable steps to ensure students are not placed at a 'substantial' disadvantage due to their disability or difficulty.
- Criteria for judging 'reasonable' are that they do not compromise academic standards, health and safety or the relevant interests of other people, including other students. The college has a duty of care to all users and the health and safety of those users is paramount.
- All reasonable adjustments should be financially viable and practical.

- Support for qualifying students is funded by educational funding bodies, the Local Authority or the Disabled Student Allowance (DSA) and removes barriers to success and achievement by making reasonable adjustments.
- It is appropriate in any educational institution to operate rules which promote order and fairness and allow the development of students' abilities and skills, taking into account any conditions which would affect their ability to successfully complete their course of study.
- In a small number of cases during their time at college, students may become unfit to study. For example, when, with or without their awareness of it, they may display inappropriate behaviour, endanger themselves or others, disrupt other students or hinder the proper functioning of the college.
- Students may also become unfit to study when prolonged or regular short term absence prevents them from attending their timetabled sessions, and arises out of a mental or physical health condition or a disability and persists despite all reasonable adjustments having been made to accommodate it.
- The Fitness to Study Policy should only be used in exceptional cases where other college policies and procedures are inappropriate and use of the policy is approved by the Vice Principal Curriculum and Support.
- This policy has been drawn up in order to ensure that all students who may be subject to Fitness to Study Procedures are dealt with in accordance with natural justice in a fair and equitable manner, providing an appropriate, proportionate, prompt and flexible response to serious concerns about a student's fitness to study.
- Wherever action under this policy is undertaken, all stages of the policy should be investigated thoroughly.
- With due reference to the Equality Act 2010, where there is concern from parents, guardians, the feeder school and/or the Local Authority that college may not be an appropriate place to study, due to the applicant's mental health, violent or sexual behaviour or profound and complex needs, the Head of Safeguarding, Head of Student Support, Head of Supported Learning and Assistant Principals will assess whether a place will be offered to the applicant.
- All personal and sensitive information will be managed in accordance with the Data Protection Act, General Data Protection Regulations and the common law of confidentiality.

N.B If at any time in the opinion of the College it is more appropriate to proceed under the Disciplinary Procedure or other associated policies, the College shall have the right to do so.

## **SCOPE**

- These procedures apply to full-time and part-time students of the College when they are at the College, when they are travelling to and from the College on college transport, or on a college organised trip, placement or event. The jurisdiction of this policy also extends to non-College related activity and will also apply when behaviour outside of the College has a detrimental impact on others from the College, e.g. cyber-bullying.
- This policy applies to UCEN Manchester Higher Education students but may be amended for those students who are subject to the partner University procedures.
- For 14-16 pupils, action will be taken in liaison with the relevant partner high school, according to the agreed protocol wherever possible.

## **PURPOSE**

The purpose of the policy is to:

- Support students for whom a mental or physical health condition or a disability may make them unfit to study at the time the procedures are instituted.
- Ensure consistent and fair treatment in relation to action taken in response to allegations of unacceptable conduct or performance. Consideration given to other relevant policies and procedures.

## **INDICATORS OF CONCERN REGARDING FITNESS TO STUDY**

A student's Fitness to Study may be brought into question as a result of a wide range of circumstances. These include but are not limited to:

- Serious concerns about the student emerge from a third party (e.g. Friend, colleague, placement provider, member of the public, employer, multi-agency partner, parent) which indicates that there is a need to address Fitness to Study.
- A student has told a member of the College's staff that they have a problem and/or has provided information which indicates that there is a need to address their Fitness to Study.
- A student has not engaged with study for a period of time without any reason being given and they have failed to engage with support offered through the college. (Absence may be a cause of concern as health may be preventing attendance).
- The student's disposition is such that it indicates that there may be a need to address an underlying mental health issue. For example, if a student has demonstrated mood swings or unusual behaviour, shown signs of depression, become withdrawn/aggressive/distressed/irritable, or is becoming intimidating to others.
- Behaviour, otherwise dealt with as a disciplinary matter, which is considered may be the result of an underlying physical or mental health problem.
- The student's academic performance, physical behaviour or demeanour is not acceptable and this is thought to be the results of an underlying physical or mental health problem.

## **GENERAL PRINCIPLES**

- No action will be taken against a student until the circumstances have been investigated. Each case will be considered on its merits and parents or guardians will be informed, as appropriate for students aged 16-19 years.
- A student who has not given or has withdrawn consent for parental/guardian involvement in their education will be interviewed by the Head of Safeguarding to investigate how the student will be supported throughout the procedure.
- At any stage during the procedure the Head of Student Support, (NB, throughout this policy, 'Head of Student Support' should be substituted by 'any Head of Department' in respect of 19+ or HE learners), may suspend the student whilst an investigation is carried out, following the suspension procedure as outlined in the Student Disciplinary Policy.
- The Head of Student Support and Head of Supported Learning will contribute and agree to the support requirements on a case by case basis to help the student reach the acceptable standards of conduct.
- At every stage, a student has the right to be advised of the reason for these meetings. If a student fails, without good reason, to attend a meeting which he/she has been advised to attend, the meeting can take place and a decision may be made in his/her absence.

- Written records will be kept of all stages of the procedure, up-loaded to My Concern or ProMonitor where appropriate.

## **INITIAL SUPPORT AND GUIDANCE TO STUDENTS**

- In advance of this policy being invoked, informal discussion(s) between the student and college staff may be initiated by either the student or the member of staff, where initial emerging concerns about the student's behaviour and/or health warrants. The informal discussion(s) should give the student the opportunity to explain their perception of the matter.
- The level of support the student is currently accessing should be considered and the student should, if necessary, be referred to one or more of the support services offered by the College. It should be made clear to the student that there are concerns relating to their mental and/or physical health and the impact upon them and/or other members of the College community, that such concerns exceed any usual pastoral role and will need to be referred onto specialist support (including multi agency partners).
- The support services available at the College to which students may be signposted include: Student Services, (SESW, Student Mentors, Achievement Tutors), Careers and Welfare, Counselling Services, Supported Learning team
- It is hoped that in most cases issues can be resolved at this informal stage, and that students will respond positively, taking advantage of the support available.
- Where it is suspected that a student's behaviour may be related to an ongoing or emerging mental health problem, the College's SESW team must be consulted. In cases of emergency the College Head of Safeguarding must be informed.
- Any informal discussions, advice and undertakings made by the staff concerned and/or the student should be documented on My Concern or Pro-monitor as appropriate.

## **STAGES OF THE PROCEDURES**

- Normally the procedures will be followed in the order of the stages set out below. However, where there is a serious concern or risk to others, the health and safety of the student, other students and staff would be paramount and action taken accordingly.
- Any member of staff who is concerned that a student may be unfit to study by reason of a mental or physical health condition should refer the student to the relevant Head of Student Services, who will inform the student's Head of Department.
- The Head of Student Support will consider the concerns about the student's fitness to study which have emerged. The student will be referred to the Support team for appropriate action if appropriate.
- The Head of Student Support will seek approval from the Assistant Principal to proceed with the Fitness to Study procedures.
- The Head of Student Support will arrange an initial informal meeting. The purpose of the meeting will be to make the learner aware of the nature of the concerns that have been raised, hear and consider the student's views and to ensure that they clearly understand the College's expectations regarding fitness to study and agree the best way to proceed.
- During the meeting, the Head of Student Support will make a record of any agreed actions with the student, to be monitored by the Head of Student Support. The various sources of support open to the student will be explained and a plan put into place to support the student. The student will be made aware that it is their responsibility to be fit for study and that there is a recognised concern within the College. If the situation does not improve within an agreed timescale, or if it becomes apparent during the initial meeting that the

issue is considered too serious to address informally, (as outlined above), the case will be referred to an Assistant Principal, who will arrange to meet with the student.

- A Risk Assessment may form part of either process if the student is considered to be a danger to themselves or others and relevant external agencies will be informed.
- Minutes of any meeting will be taken and the student will be required to confirm that the record is in his or her belief an accurate reflection of the actions agreed.
- If significant or persistent concerns about a learner's fitness to study remain, or if the Assistant Principal has determined that the case has become too serious to deal with and the student chooses not to leave college, the suspension procedure, as outlined in the Student Disciplinary Policy, will be implemented.
- Suspension of the student may lead to them choosing to leave the college voluntarily or expulsion as outlined in the Student Disciplinary Policy.
- If the student chooses to leave college they may re-enrol to resume their studies on the same or alternative course, at a later date, once it has been agreed by the relevant Assistant Principal that they have become fit to study. This is subject to normal entry and funding criteria.
- Students who are excluded may put themselves in the position of being unable to enrol in the future, as detailed in the Student Disciplinary Policy.
- A student will normally be informed in writing of the outcome within five working days. A copy will be sent to parents/guardian as appropriate.

## **ASSESSMENT OF FITNESS TO STUDY AT ADMISSION**

- There are occasionally concerns expressed by parents, feeder schools, the Local Authority or the college that The College may not be an appropriate place to study, due to applicants profound or complex needs or safeguarding issues.
- The requirement to complete this assessment may be triggered by a request to the College by the Local Authority to request a place for a student with High Needs with an Education Health and Care Plan. In this case a response is required within 15 days of the request.
- In these cases there may be a request that a more specialised interview or desk assessment takes place where consideration of all factors and evidence will be taken into account. An appropriate college team, which could include Vice Principals, Assistant Principals, Head of Student Services, Head of Supported Learning, will undertake the process with external involvement of the family, school or Local Authority as appropriate in each individual case. A range of evidence may be utilised in the assessment which may include:
  - Statement of Special Educational Needs
  - Education, Health and Care Plan
  - Medical evidence
  - Psychiatric/Psychological evidence and assessment
  - Reports from schools
  - Physical, emotional and social needs
  - Specialist treatments and therapies
  - Vulnerability and Safeguarding activities of daily living, level of attainment, the level of support, special equipment and specialist environment,
  - Input from the applicant, the family or external parties.
- The process will consider whether The College can offer a suitable curriculum and support for the individual. In cases where there are significant funding implications the decision will be made in consultation with the Local Authority.



## THE APPEALS PROCEDURE

An applicant/student has the right to appeal against a decision to deny admission/exclude under this policy and will be informed of this right.

Appeals against fitness to study and supported admission decision

- i. If a student wishes to appeal against the decision made on their fitness to study at The College prior to admission, they must do so in writing to the Assistant Principal Student Services within 5 working days of notification of this decision.
- ii. An appeal hearing will normally be held within 5 working days of receipt of a request. The appeal will normally be heard by a Vice Principal. The applicant has the right to be accompanied to the appeal hearing by a parent/carer or for adult/HE programmes may be accompanied by a parent/carer, partner or friend
- iii. The applicant will be informed in writing of the outcome of his/her appeal within 5 working days of the appeal hearing.
- iv. The right of appeal, in the case of a young person with an EHC Plan, will be in consultation with the Local Authority

Appeals against Expulsion (i) If a student wishes to appeal against a decision to exclude him/her, he/she must do so in writing to the Vice Principal within 5 working days of notification of expulsion.

- i. An appeal hearing will normally be held within 10 working days of receipt of the request. The student will be informed in writing of the date, time and place of the appeal hearing and the reasons for his/her expulsion. The student will be given a copy of the Fitness to Study Policy. If the student requests extra time to prepare his/her case, the hearing may be put back for a period not longer than 5 working days. The College will endeavour to accommodate special requests, e.g. religious festivals.
- ii. An appeal against exclusion will normally be heard by the Vice Principal or his/her delegate.
- iii. A student on aged 16-18 may be accompanied by a parent/carer and a student on an adult/HE programme may be accompanied by a parent/carer, partner or friend.
- iv. At the appeal hearing, chaired by the Vice Principal and two members of the College Management, the reason for the exclusion will be explained first. The student will then have the opportunity to present his/her case and any supporting evidence and to challenge the reasons for his/her exclusion.
- v. A student will normally be informed in writing of the outcome of the appeal hearing within 5 working days. For students on aged 16-18 a copy of the letter will also be sent to the parents/carer.
- vi. If the student's appeal is unsuccessful, he/she will be informed in writing of his/her right to refer the matter to the Education and Skills Funding Agency.
- vii. For UCEN Manchester Students Only – At the end of this process students will be automatically be issued with a Completion of Proceedings (COP) letter if the appeal has not been upheld. Where the appeal has been upheld or partly upheld, students may request a COP letter within 28 days of the date of the appeal outcome. A student has the right to complain to the Office of the Independent Adjudicator (OIA), once all the internal procedures have been exhausted and a COP letter has been issued. The OIA must receive a student's



Complaint Form within 12 months of the date of the Completion of Procedures Letter.

### Completion of Procedures Letter Template

**Please note - the format may be adjusted to meet the individual circumstances of a complaint provided that the key points below are included.**

Dear [*Name of complainant*],

#### Completion of Procedures Letter

This letter confirms that the internal procedures of [*name of higher education provider*] in relation to your *complaint / appeal etc\** regarding [*please describe*] have been completed.

The issues that you raised in your *complaint / appeal etc\** were [*details*]

The issue(s) that were considered in relation to your *complaint / appeal etc was / were\**: [*brief summary of the complaint etc*].

The final decision of [*name of higher education provider*] is\* [*detail*] because [*reasons*].

The procedures / regulations applied were\*: [*details and date as supplied to the OIA's electronic Regulations Bank*].

[*Name of provider*] subscribes to the independent scheme for the review of student complaints. If you are dissatisfied with the outcome you may be able to apply for a review of *your complaint / appeal etc\** to the Office of the Independent Adjudicator for Higher Education (OIA) provided that the complaint you take to the OIA is eligible under its Rules.

Should you decide to make a complaint to the OIA, your OIA Complaint Form **must be received by the OIA** within **12 months** of the date of this letter, that is, it must be received by the OIA **on or before** [*insert date - e.g. if the Completion of Procedures Letter is dated 9 July 2015, this date should be 9 July 2016*].

[*Include here any factors of which the provider is aware which mean that it is particularly important for the student to bring the complaint promptly.*]

You can fill in the OIA's complaint form online or download a copy from the OIA website. <http://oiahe.org.uk/making-a-complaint-to-the-oia/oia-complaint-form.aspx>. The OIA also publishes *An Introduction to the OIA Scheme for Students*, which can be downloaded from <http://www.oiahe.org.uk/media/122228/intrototheoia-students-april2018.pdf>. Alternatively, you can telephone or write to the OIA for a form. **You should send a copy of this letter to the OIA with your OIA Complaint Form.**

Guidance on submitting a complaint to the OIA and the OIA Complaint Form can also be found on the OIA's website <http://www.oiahe.org.uk/making-a-complaint-to-the-oia/how-to-make-a-complaint.aspx>. You may also wish to seek advice from the Students' Union about taking your complaint to the OIA.

Please note that the OIA will normally only review issues that have been dealt with through the provider's internal procedures.

Yours sincerely,

[Authorised signatory]



**UCEN Manchester Appeal Outcome Letter Template (to be used where appeal for an enrolled student has been upheld or partly upheld)**

Our Ref:

[Date]

[Address]

STRICTLY PRIVATE AND CONFIDENTIAL

Dear

Under the UCEN Manchester Fitness to Study Policy, the senior manager hearing your appeal has reached an outcome to your appeal.

The issues that you raised in your appeal were [details]

The issue(s) that were considered in relation to your appeal: [brief summary of the basis of the appeal etc].

The final decision of UCEN Manchester is that your appeal has been upheld/partly upheld (delete as appropriate) because [reasons].

This letter confirms that all the internal procedures of UCEN Manchester, in relation to your appeal under the Fitness to Study Policy have been completed. As your appeal has been upheld/partly upheld you will not be automatically be issued with a Completion of Proceedings letter. You have the right to request a Completion of Proceedings Letter within 28 days of the date of this letter, which would allow you to apply to the Office of the Independent Adjudicator (OIA) for a review. The OIA Complaint Form must be received by the OIA no later than 12 months after the date of the Completion of Procedures Letter.

Yours sincerely

Signature

Contact Details