



# College of Osteopaths

## Fitness to Practise

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### 1. Scope of the Policy

Fitness to Practise is an individual's ability to meet professional standards; it is about character, professional competence and health. As a pre-registration osteopathic student, you have certain privileges and responsibilities different from those of other students, as successful completion of this programme normally leads to professional registration. This means that the College expects you to demonstrate not only academic and clinical ability but also personal suitability, professional competences and an appropriate commitment to your chosen profession at the point of admission and throughout your academic programme and clinic-based training.

- 1.1 This policy considers your fitness to practise in relation to your behaviour and your health, as poor health can affect your fitness to practise either directly or by being a cause of misconduct.
- 1.2 Matters involving fitness to practise concerns will be dealt with under this Policy, however it may also be appropriate to implement other College procedures as an alternative, or in addition to this Policy.
- 1.4 Issues relating to the assessment of professional competences or allegations of academic misconduct including cheating, plagiarism or any other form of unfair practice will be usually be managed under the validating University's Academic Regulations. However, if it is considered that an academic sanction by itself is inadequate in repeated or severe cases of academic misconduct or because the nature of any offences calls into question a student's fitness to practise, the matter may also be referred for consideration under this Policy.

### 2. Professional, Statutory & Regulatory Framework

- 2.1 This policy reflects the characteristics set down in the Benchmarking Statement for Osteopathy, developed by the QAA for all osteopathic institutions in the UK (QAA 2015). It is also informed by guidelines from the General Medical Council (GMC) who publish similar policy statements for medical students, the Guidance for Osteopathic Pre-Registration Education and the Office of the Independent Adjudicator Good Practice Framework around Fitness to Practise procedures.
- 2.2 Students are expected to comply with the relevant professional codes of conduct and demonstrate the development of standards of professionalism required.
- 2.3 Our College needs to be satisfied that students registering for and undertaking our programme are professionally suitable to do so, in the context of the professional area concerned. First and foremost students and staff must adhere to our College's policies and procedures.

### 3. What is Fitness to Practise?

- 3.1 Once registered as an osteopath, you must practice in accordance with the Osteopathic Practice Standards (OPS) which are published by the general Osteopathic Council (GOsC). As a student osteopath you are required to comply with the standards set out in the Guidance About Professional Behaviours and Fitness to Practise for Osteopathic Students' These standards are described by GOsC as follows:

- 3.1.1 Professional behaviour means demonstrating appropriate values, behaviours and relationships using appropriate knowledge, skills and attitudes. It manifests itself as doing the right thing and behaving appropriately, even when no one is checking. Regulation begins with personal responsibility. As part of your education and training as a healthcare professional, you will continue to learn about professional behaviour and personal responsibility.
- 3.1.2 Your conduct in both your personal and professional life counts when considering professional behaviour, even as a student. Throughout your course, the importance of conduct and approaching ethical issues in an appropriate way will be emphasised to you. You will be supported to learn effective professional behaviours throughout your recognised qualification course.
- 3.1.3 If there are concerns about fitness to practise, a fair and transparent process is followed. This process will comply with the guidance in the General Osteopathic Council's Student Fitness to Practise: Guidance for Osteopathic Educational Institutions
- 3.2 In 2014, the GOsC made a public commitment to strengthen and harmonise professional standards in relation to candour and the reporting of errors. This has been incorporated into the Osteopathic Practice Standards. For students this means that they must be open and honest in all their activities at the College, including honesty with patients as well as staff and other students.
- 3.3 Fitness to practise relates to an osteopath's ability to practice in accordance with the Osteopathic Practice Standards (OPS), demonstrating appropriate knowledge, skills, attitudes and behaviour. As such, matters which affect patient safety, or which affect the trust that the public places in the profession, may cause an individual's fitness to practise to be questioned.
- 3.4 It is the responsibility of the College to provide you with a reference to support your application to register with the General Osteopathic Council when you graduate. Any action taken under this Policy may have implications for this reference. Without this reference you may be unsuccessful in your application for registration and therefore unable to work as an osteopath.

#### **4. Aims and approach of the Policy**

- 4.1 Students registering for and undertaking this programme will be required at all times to:
- Demonstrate high standard of conduct
  - Demonstrate relevant values and attitudes and behaviours
  - Satisfy relevant health requirements
- 4.2 This Policy sets out how our College will respond to instances where a concern is raised regarding a student's fitness to practise and the type of action that the College may take to deal with the concern and to support the individual student.
- 4.3 The Policy aims to provide a framework within which the College can work with students to maintain satisfactory standards of conduct and ongoing fitness to practise and to encourage and support improvement where necessary.

- 4.4 As an integral part of our commitment to good professional practice, emphasis will be given to developing awareness among students that suitable professional behaviours are required of them at all times.
- 4.5 There may be occasions when minor misconduct and/or breach of professional standards occur during a student's learning. In these cases opportunities for the student to learn from the experience shall be made available and a facilitative rather than punitive approach will be taken where this is deemed appropriate.
- 4.6 The College aims to ensure that issues relating to fitness to practise are dealt with fairly, promptly, proportionately and with regard to the individual circumstances of each case.
- 4.7 The protection of the public and the staff and students in our College community and the reputation of the programme will also be key considerations in relation to any decisions taken with regards to a student's conduct or fitness to practise.

## **5. Fitness to Practise Concerns**

- 5.1 The College recognises that concerns regarding a student's fitness to practise may arise in a variety of ways and may be raised by College staff, other students and the public.
- 5.2 Examples of issues which may lead to fitness to practise concerns include, but are not limited to, instances where a student has, or is suspected of:
- Academic Misconduct (for example plagiarism, cheating in examinations, forging records).
  - Other disciplinary offences (for example antisocial, abusive or threatening behaviour, sexual misconduct, violence, bullying or harassment, damage to property, internet access abuse, substance/alcohol abuse).
  - Health & Safety breaches.
  - Failure to disclose convictions or other information that the student is required to disclose
  - Health concerns including failure to seek or adhere to medical treatment or support; failure to recognise limits and abilities and lack of insight into health concerns; where mental health, emotional or inter-personal issues pose a risk to the student's own safety, health and wellbeing or that of others or the proper operation of the profession or work based setting; or where the student cannot be expected to attain the competency standards of the course notwithstanding reasonable adjustments made in relation to a disability.
  - Unsafe practice, incompetence or requiring too much supervision
  - Unprofessional behaviour including:
    - Lack of respect, poor attitude, laziness, aggression and bullying
    - Indiscipline, failure to follow dress code, inappropriate use of mobile phone, poor time keeping, poor attendance
    - Failure to self-reflect, lack of insight
    - Failure to engage with investigations into unprofessional behaviour
    - Poor self-management, lack of personal accountability
    - Sexual impropriety
    - Serious or repeated dishonesty
  - Behaviour away from the student's studies, including:

- Criminal convictions eg violent offence, offence of dishonesty
- Disruptive behaviour in the community
- Inappropriate use of social media.

- Safeguarding concerns

- 5.3 The College will take action to deal with concerns promptly and fairly with a view to managing matters effectively and supporting students, and where necessary, other students and relevant staff.
- 5.4 The College recognises that dealing with matters in this way is critical, not only to ensuring that relevant professional standards are attained and maintained, but also to supporting student learning, academic achievement, a positive student experience and working environment for staff.
- 5.5 When dealing with students under this policy, the College will consider what support and guidance may be offered to students, including those services provided by our Education Support Officer (ESO) Student Support and by the Students Union Advice Service. Students will be encouraged where appropriate to seek support from relevant internal and external sources.
- 5.6 Our College recognises the possibility that an allegation or concern raised relating to fitness to practise may be vexatious or malicious. Any allegations raised by either a student or member of the College staff found to be vexatious or malicious will be referred to the College Conduct & Student Disciplinary Procedure for further consideration in relation to the behaviour and actions of the individual making the allegation.

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

- 6.1 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 taking action under this Policy pending the outcome of any police inquiry and/or criminal investigation. However, the College is not prevented from taking action under this Policy notwithstanding that any police inquiry and/or criminal investigation is being undertaken.
- 6.2 Acquittal or discontinuance of criminal proceedings shall not preclude the College from continuing its own disciplinary action in relation to any alleged misconduct.
- 6.3 Where a finding of inappropriate conduct is made and the student has already been sentenced by a criminal court in response of the same facts, the court's penalty will be taken into account in determining the penalty under this Policy.

## **7. Emergency Suspension**

- 7.1 The College has the right, at its absolute discretion, to suspend any student at any time on such conditions that it sees fit.
- 7.2 This right to suspend will usually only arise where a student is alleged to have committed an act of misconduct and the College is of the opinion that suspension is necessary given the circumstances, because for example the alleged misconduct poses a risk to the safety, health and wellbeing of the

student, the wider College community of students and staff, the general public, or may bring the reputation of the profession, programme or College into disrepute.

7.3. The Head of Education (or their nominee) will consider whether there are grounds for an emergency suspension for a specified period of time or pending the outcome of identified steps being taken under this Policy in consultation with the Registrar (or their nominee).

7.4. In reaching the decision to make an emergency suspension consideration will be given to whether specific arrangements should reasonably be put in place for the student in order to minimise the impact on their studies. This may include, for example, allowing the student to sit an examination or assessment, but it is at the absolute discretion of the Principal.

7.5. An emergency suspension is a neutral act and is not a determination, sanction or penalty under this Policy in relation to a student's fitness to practise.

## **8. Stages of Procedure**

8.1. Concerns about a student's fitness to practise will be dealt with under the Procedure outlined in Section 12 of this Policy which has three potential stages:

- Preliminary Stage/Cause for Concern
- Fitness to Practise Hearing
- Appeal Stage

8.2. The level at which the procedure is implemented will depend on factors including the nature of the concern, the seriousness of any risk posed and the student's response to any steps taken by the College to manage the situation.

## **9. Investigations**

9.1. Prior to any matter being dealt with at the Preliminary/Cause of Concern stage or by Fitness to Practise Hearing, the College may undertake such investigations as it considers reasonable and appropriate in the circumstances in order to inform the College of the appropriate manner in which to deal with the matter, including at which stage of the Procedure the matter should be considered.

9.2. The investigations may involve speaking to the student concerned and with other students, staff, the general public and where relevant, third parties such as health or education professionals and calling for relevant information. Any investigation will be carried out in a fair and transparent manner.

## **10. Representation**

10.1. At each stage of this Policy and Procedure, including the initial investigation, a student has the right to be accompanied by a friend, relative or a representative of the Student's Union.

10.2. Where a student proposes to use and pay a legal professional or equivalent person with whom the student has contracted to provide representation in preparation for and through attendance and advocacy at a hearing, the prior approval of the College Registrar must be obtained.

10.3 If the College agrees to the student's request it will consider whether it would be appropriate to instruct legal representation on the College's behalf in relation to the case concerned.

## **11. Confidentiality and Disclosure**

11.1 Students must be aware that in dealing with fitness to practise concerns it may be appropriate for the College to discuss and/or refer matters or disclose outcomes of investigations to third parties, such as the General Osteopathic Council, employers and/or the Home Office and in accordance with the College's statutory obligations and that, on occasion, this may be done without notification to the student.

11.2 It is the responsibility of the student to advise the appropriate professional body on the outcome of any Fitness to Practise Hearing when registering with the professional body if required.

11.3 Other than where the College is required to disclose information to an external body as outlined above, the information disclosed during or resulting from Fitness to Practise proceedings is strictly confidential and should not be shared with any third part or any other staff and students.

11.4 The College expects that the student, any witnesses called by the student, and the student's representative will respect the sensitivity and confidentiality of the information disclosed during these proceedings and the right of the other students and staff to raise issues of concern in good faith without fear or recrimination.

11.5 The College expects that its staff and stakeholders will respect the sensitivity and confidentiality of issues relating to a student's fitness to practise and will respect the outcomes and actions of a Fitness to Practise Panel determined on the basis of the facts and all available evidence.

11.6 Any failing of either College staff or students to respect the provisions relating to confidentiality and disclosure contained within this Policy will be subject to separate disciplinary proceedings.

11.7 Where allegations have been found to be untrue and/or as not having a bearing on the student's likely professional suitability or fitness to practise the College would not normally disclose that the student has been subject to proceedings unless required to do so by law.

11.8 Where a present or former student has been required to withdraw from a course or has been set conditions for remaining on a course following fitness to practise proceedings it would be relevant to disclosure this in a reference where:

- (a) That reference is in connection with a job or a course that is relevant to the Fitness to Practise finding.
- (b) There is a specific question asking if the student had been subject to any disciplinary or Fitness to Practise procedures.
- (c) Where the nature of the post or course means that the refers is asked to confirm that the student possessed attributes that the findings of the Fitness to Practise Panel put into doubt.

- 11.9 The College will retain a record of all Fitness to Practise cases, both those resolved locally and those which proceed to a Panel hearing in a secure, relevant filing system in accordance with the provisions outlined in the College Record Retention Policy.
- 11.10 The College will collect data about Fitness to Practise cases and will submit a report to the Quality Review Board. In addition this data will be provided to the General Osteopathic Council as part of the College's Annual Monitoring Report.

## **12. Stages of the Process**

- 12.1 Concerns about a student's professional suitability or fitness to practise will be dealt with under the following procedure which has three potential stages:
- Preliminary Stage/Cause of Concern
  - Fitness to Practise Hearing
  - Appeal Stage
- 12.2 The level at which the procedure is implemented will depend on factors including the nature of the concern, the seriousness of any risk posed and the student's response to any steps taken by the College to manage the situation.

## **13. Preliminary Stage/Cause of Concern**

- 13.1 The purpose of the Preliminary/Cause of Concern Stage is to deal with any initial or minor causes of concern relating to a student's fitness to practise fairly quickly where the Education Support Officers (ESOs) are of the view that the matter is appropriate to be dealt with without a formal Fitness to Practise Hearing and the student also consents to the matter being dealt with in this way.
- 13.2 In determining whether the matter is suitable to be dealt with locally the ESOs will consider the nature of the concern or conduct, whether the student openly acknowledges there is an issue to be addressed and/or any other relevant circumstances. The ESOs will consult with the Head of Education in using the Preliminary /Cause of Concern stage in order to ensure fair and equitable treatment of students in similar circumstances across the College provision.
- 13.3 Once it has been confirmed that the matter is suitable to be dealt with using the Preliminary /Cause of Concern stage, the Head of Education's named nominee will inform the student in writing, usually by email, that there is a concern about fitness to practise; the nature of the concern and that they are seeking to deal with the matter locally and the student will be provided with a copy of this Policy and Procedure.
- 13.4 A register of named nominees will be agreed by the Head of Education and kept by the Registrar.
- 13.5 The Head of Education's named nominee will arrange a meeting with the student to discuss the concern and any support needs the student may have. The student will be given the opportunity to respond to the concern. The Head of Education's named nominee 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. The Head of Education's nominee should be accompanied at all meetings with the student and a record of the meeting shall be taken.

- 13.6 The Head of Education's nominee will determine whether the student's fitness to practise is impaired, or may become impaired, and any actions to be taken. Actions may include, but are not limited to, one of more of the following outcomes:
- (a) There is no case to answer.
  - (b) No further action to be taken.
  - (c) Support arrangements and/or reasonable adjustments to be put in place for the student, following any necessary College assessment.
  - (d) An action plan be drawn up setting out how the matter will be managed by the College and any requirements placed on the student.
  - (e) A student be withdrawn from the teaching clinic.
  - (f) A written warning be issued to the student and held on the student's personal file.
  - (g) The matter be referred to a Fitness to Practise Panel Hearing.
  - (h) The matter be referred for consideration under another College process.
- 13.7 The student will be notified in writing, usually by email, and normally within 5 working days of the meeting, of the decision by the Head of Education with reasons and any further actions to be taken.
- 13.8 By agreeing to the outcome of the Preliminary/Cause for Concern stage, the student agrees in writing to comply in full with any outcomes determined following the meeting and has no right of appeal. Any previous issues may be considered as part of any future fitness to practise considerations.
- 13.9 A copy of the documentation will be retained on the student's file.
- 13.10 If the student does not agree to the outcome of the Preliminary/Cause for Concern stage they must respond in writing, usually by email, within 5 working days of receiving the outcome. If there is any disagreement the matter will be referred to a Fitness to Practise Panel Hearing.

#### **14. Fitness to Practise Hearings**

- 14.1 A Fitness to Practise Hearing will be convened by the College promptly when it is determined that it would be appropriate to do so or where a student has elected that any issue of concern be dealt with through a formal Hearing.
- 14.2 The student will be informed in writing, usually by email, that there is a concern about fitness to practise; the nature of the concern; that the matter will be dealt with through a formal Fitness to Practise Hearing; and the student will be provided with a copy of this Policy and Procedure.

#### **15. Notice of Hearing**

- 15.1 The student will be invited to a Hearing before a Fitness to Practise Panel. Not less than 10 working days in advance of the hearing the student will be given, in writing, usually by email:
- Notice of the date, time and place of the hearing.
  - Full details of the fitness to practise concern.
  - Documentation in support of the concern, including all records of any initial investigation.

- A reminder of the student's right to be accompanied or represented at the hearing.

15.2 These timescales have been established in the interests of the student and staff involved to allow them to prepare adequately for a formal Fitness to Practise Hearing. Students are expected to prepare for a hearing in a professional manner which includes observing deadlines as would be expected in professional practice. Any lenience in these timescales is at the absolute discretion of the Chair of the Panel following consideration of any relevant circumstances and the importance of a fair, timely and impartial hearing.

## **16. Evidence and Witnesses**

16.1 The student may submit to the Fitness to Practise Panel any written evidence which they consider relevant to the issues to be considered at the Hearing, provided that it is done at least 5 working days in advance of the date of the Hearing.

16.2 Notice of any witnesses to be called by the student and the College's case presented at the Hearing must be given in writing to the Fitness to Practise Panel at least 2 working days in advance of the date of the Hearing.

16.3 If the student wishes to supply witness statements, it is the responsibility of the student to organise and supply the witness statements and to ensure that any witnesses are informed of the date of the hearing and are available to attend.

16.4 A key aim of the fitness to practise Policy is to ensure that issues are dealt with fairly, promptly, proportionately and with regard to the individual circumstances of the case.

16.5 All staff called to provide information to a Panel are expected to attend fitness to practise hearings as required by the College. All students called to provide information to a Panel are expected to attend fitness to practise hearings as a reasonable request of the College and in the interests of dealing with matters promptly. It is however, acknowledged that this may be difficult due to the part-time nature of the course, students and staff and appropriate arrangements will be considered by the Chair of the Panel on a case by case basis.

16.6 The evidence provided to hearings may be given orally or in writing. It is expected that anyone wishing their evidence to be heard would attend a hearing.

In exceptional circumstances any person deemed vulnerable may not be required to attend the hearing and this may apply to students and staff. In such exceptional circumstances, as agreed between the member of staff appointed to present the ESO's case and the Registrar, evidence may be gathered by and presented to the Panel by alternative and more suitable means. In such cases a full record must be retained of any deliberations and factors considered in reaching a decision to place anonymised evidence before a Panel.

The Panel must give due consideration to the fact that the witness may have not been present to respond to questioning from the respondent and/or their representatives in its deliberations and to the strength of any evidence which has not been subject to challenge or questioning at the hearing.

16.7 In exceptional circumstances, an individual may also request, in consultation with the member of staff appointed to present the ESO case and the Registrar, that their names or other means of identification be removed from any documentation provided to the hearing. In such cases, the

respondent should be advised that the documentation has been redacted in consultation with the College Registrar.

## **17. Panel Composition**

17.1 The Fitness to Practise Panel will be convened by the Head of Education and will comprise:

- Clinical Lead (Chair)
- Two experienced members of academic staff, usually including one from the relevant profession
- One experienced member of staff from the opposite site (ie London or Midlands)
- An osteopath external to the College

17.2 All Panel members will be impartial.

17.3 The Head of Education will be involved at all stages of the formal process and shall be present through the Fitness to Practise Panel Hearing and all deliberations of the Panel to advise on this policy and procedure but will not be a member of the Panel. A Secretary to the Panel will also be provided by the College.

## **18. Conduct of Hearings**

18.1 The order and procedure to be followed at a Hearing before the Fitness to Practise Panel will be at the discretion of the Chair and will comply with the principles of natural justice.

18.2 The Chair of the hearing should:

- Introduce those present to the student and explain why they are present.
- Explain that the role of the Chair is to ensure that appropriate boundaries and respectful conduct are maintained during the hearing, and that questions are pertinent to the matter in hand.
- Explain the purpose of the hearing.
- Establish from the outset that the point of the hearing is to establish facts, not catch people out.
- Clarify that the hearing is to be heard in private and the discussions are confidential to those present at the Panel.
- Establish the documentation and other material evidence to be considered as part of the hearing, and that all parties are in possession of the full range of this material, which is confidential to those present.
- Explain the format of the hearing.
- Explain that the student's companion/representative will be able to confer privately with the student, if the need arises.
- Explain how and when the decision will be notified to the student.
- The Hearing will be recorded in writing by the Panel Secretary.

18.3 The format of the hearing is likely to be as follows:

- A member of the College staff appointed to present the case will outline the Fitness to Practise concern(s) and how matters relate to the College's own policy and procedures relating to fitness

to practise and expected standards of conduct and behaviour required by the General Osteopathic Council.

- The case presented may call and question witnesses, following which the witnesses may be asked to leave.
- The student and his/her representative will be given an opportunity to ask questions of the case presented and these witnesses.
- The student and his/her representative will have a full opportunity to respond to the case as presented.
- The student and his/her representative may call and question witnesses.
- The case presented may question these witnesses.
- The Chair will invite the case presented to sum up the case.
- All members of the Panel and the Head of Education may ask questions of the case presented, the student and his/her representative and of any witnesses called and may recall the parties or witnesses at any time.
- The Chair may adjourn or postpone the hearing where in their discretion it is reasonable to do so or where further enquiries need to be made before a decision can be reached.

18.4 The Fitness to Practise Panel will retire in private to deliberate in the presence of the Head of Education and the Secretary to the Panel who will take notes.

## **19. Standard of Proof**

19.1 On admission to a programme of study the normal assumption is that the student is likely to be fit to practise. The burden of proving that the student is not fit to practise rests with the person who presents the case against the student. The Panel must be satisfied that on the balance of probabilities it is more likely than not that the student has breached the professional code, competence or guidance and proved to be unfit to practise.

19.2 If the student admits the alleged misconduct or lack of fitness to practise but wishes to rely on some exception or mitigation for their conduct or behaviour then it is for the student prove on the balance of probabilities this defence.

## **20. Panel Hearing Outcomes**

The Fitness to Practise Panel will determine whether the student's fitness to practise is impaired, or may become impaired, and any actions to be taken. Actions may include any combination of, but are not limited to, the following outcomes:

- (a) There is no case to answer.
- (b) No further action to be taken.
- (c) A letter of apology be written.
- (d) A payment be made in compensation or damage or loss.
- (e) Support arrangements and/or reasonable adjustments to be put in place for the student, following any necessary College assessment.
- (f) An action plan be drawn up setting out how the matter will be managed by the College and any requirements placed on the student.

- (g) A student be withdrawn from the teaching clinic.
- (h) A written warning be issued to the student and held on the student's personal file.
- (i) A final written warning be issued to the student and held on the student's personal file.
- (j) The matter be referred for consideration under another College process.
- (k) A recommendation is made to the validating University that an award is withheld or withdrawn.
- (l) A recommendation is made to the Exam Board for an alternative award where available.
- (m) A recommendation be made to the Principal that the student be suspended from the programme for a specified period of time (with or without associated conditions).
- (n) A recommendation be made to the Principal that the student be expelled.

## **21. Action Plans**

- 21.1 Where the outcome of the Fitness to Practise Hearing includes the drawing up of an action plan, the Plan will set out how the matter will be managed by the Education Support Offices and any requirements to be placed on the student and/or the course teaching team.
- 21.2 The student and relevant members of the course teaching team will be provided with a copy of the action plan and a date will be arranged at which the action plan will be reviewed by an appropriate member of staff as determined by the Head of Education.
- 21.3 At the review meeting the nominated member of staff will consider whether the action plan should continue and, if so, whether it should be amended and whether all requirements have been complied with and undertaken by both the student and the course teaching team.
- 21.4 The student will be informed that where they fail to comply with any requirements, the matter may be referred to a further Fitness to Practise Hearing, where consideration will be given to the circumstances, findings and outcomes of any previous proceedings relating to Fitness to Practise.

## **22. Student Attendance at Hearings**

- 22.1 Any student who is the subject of this Policy and Procedure must make all reasonable efforts to attend any hearings or meeting they are requested to attend.
- 22.2 If a student has indicated that they are attending but is prevented from doing so for a good reason, which can be evidenced, and the student advises the Chair of the Fitness to Practise Panel, prior to the meeting, the Hearing may be deferred to a later date.
- 22.3 If a student has indicated that they are attending but fails to attend and does not inform the Chair of the Fitness to Practise Panel prior to the Hearing, the Hearing will go ahead and a decision will be reached on the basis of the information available to the Panel.
- 22.4 If a student fails to confirm their attendance and attempts to contact the student have failed, the Hearing will go ahead and a decision will be reached on the basis of the information available to the Panel.

## **23. Appeal Stage**

- 23.1 Students have the right of appeal against the outcomes of the Fitness to Practise Hearing and must do so in writing to the Registrar within 10 working days of receipt of the outcome.
- 23.2 The grounds on which the appeal is made must be stated in the application for appeal. A simple request for a rehearing does not constitute valid grounds for appeal.
- 23.3 An appeal will only be granted on one or more of the following grounds and it is the student's responsibility to provide an explanation as to how the ground(s) for appeal apply to the case or its outcome:
- The College failed to follow the process set out in the Policy and Procedure and this had a material effect on the outcome.
  - The outcome was inconsistent or disproportionate to the evidence provided.
  - The decision was not reasonable in the circumstances.
  - The evidence produced at the hearing was factually incorrect or the student has new and material information or evidence which was not previously available and would have a material effect on the outcome.
- 23.4 Normally, a member of the Senior Management Team will determine the appeal application, in consultation with the Registrar (or their nominee who has not been involved in the original Panel hearing) and will make one of the following decisions:
- Dismiss the appeal
  - Refer the matter to a newly constituted Fitness to Practise Hearing sitting as an Appeal panel for consideration
  - Refer the matter back to the original Fitness to Practise Panel on the basis of new evidence.
- 23.5 If, however, an appeal is made against the decision of the Principal to suspend or expel a student, the appeal application will be determined by the Board of Governors.
- 23.6 The decision of the Fitness to Practise Panel will take effect and remain in force until such time as it is changed by an appeal outcome.
- 23.7 Where valid grounds for an appeal have been determined, against an outcome other than suspension or expulsion, the Senior Management Team will invite the student to submit additional evidence within a specific timeframe for further consideration by an appeal Panel.
- 23.8 If the matter is referred to a newly constituted Fitness to Practise Hearing sitting as an Appeal Panel, this will follow the same procedure as outlined in sections 14 to 22, except there shall be no cross membership with the original Fitness to Practise Panel. The Chair of the original Panel will attend the appeal hearing to present the case and answer questions.
- 23.9 The Appeal Panel will normally be convened within 15 days of the decision to grant the appeal and the Appeal Hearing will follow the format of the original Fitness to Practise Hearing as outlined in Section 18 above and will have the full range of outcomes available to it, as outlined in Section 20.

- 23.10 The student will be notified in writing, usually by email, and normally within 5 working days of the hearing of the decision of the Appeal Panel, along with its reasons. The decision of the Appeal Panel is final.
- 23.11 The hearing and any subsequent meeting held to review progress or to provide additional support will be formally recorded with one copy of the outcome letter and the notes of the hearing sent to the student, one copy retained on the student's personal file and a third copy sent to the Head of Education in confidence.

## **24. Appeals to the Board of Governors**

- 24.1 The Board of Governors may reject an appeal application if the notice of appeal does not include one or more of the grounds stated in Section 23.3 and/or if the explanation given in support of the grounds stated discloses no reasonable basis for an appeal.
- 24.2 Where a student's application for an appeal hearing is refused by the Board of Governors, the Registrar will inform the student of this in writing, normally within 10 working days of the appeal being received. The response will identify the relevant deficiency in the application; give the reasons for the decision and inform the student that the process is now at an end.
- 24.3 This communication will be a formal 'Completion of Procedures' letter for the purposes of any application to the Office of the Independent Adjudicator (OIA).
- 24.4 Where valid grounds for an appeal have been determined by the Board of Governors in relation to the Principal's decision to suspend or expel a student, an Appeal Panel shall be convened within 15 working days of the appeal being granted.

## **25. Appeal Panel Composition**

- 25.1 An Appeal Panel convened by the Board of Governors will comprise:
- A Board of Governor (Chair)
  - The Bursar
  - One independent external panel member with a relevant professional background
- 25.2 On behalf of the Appeal Panel, the Registrar will invite the student to submit additional evidence within a specific timeframe for further consideration by the Panel.
- 25.3 The Conduct of the Appeal Panel Hearing will follow the same procedures as outlined in Section 18, adapted as appropriate to the circumstances of the Appeal.
- 25.4 The Registrar will provide procedural advice to the Appeal Panel and nominate a Secretary to the Appeal Panel.
- 25.5 The documentation for the hearing shall be circulated at least 5 working days prior to the Appeal Panel hearing and shall include:

- A copy of the formal record of the Fitness to Practise Hearing at which the recommendation for suspension or expulsion was made;
- A copy of the documentation considered by the Fitness to Practise Panel;
- A copy of the written notice of the decision of the Principal to the student;
- The written reasons for appeal submitted by the student;
- Any additional statement or evidence provided by the student as referred to at Section 16.

25.6 Any student granted an appeal by the Board of Governors must make all reasonable efforts to attend the Appeal Panel Hearing. Decisions in relation to student attendance at hearings and proceedings will be made in accordance with section 22.

25.7 The Appeal Panel will retire in private to deliberate in the presence of the Registrar (or their nominee) and the Secretary to the Panel.

25.8 The Panel may allow or dismiss the appeal and may impose such penalty to the decision under appeal as it sees fit, using the outcomes outlined at Section 20 as a guide.

25.9 The decision of the Panel in all matters shall be final as far as these regulations and procedures are concerned.

25.10 The decision of the Panel will be confirmed in writing, usually by email, within five working days of the appeal hearing.

25.11 This communication will be a formal 'Completion of Procedures' letter for the purposes of any application to the Office of the Independent Adjudicator (OIA).

25.12 The hearing will be formally recorded with one copy of the outcome letter and the notes of the hearing sent to the student, one copy retained on the student's personal file and a third copy sent to the Head of Education in confidence.

25.13 Following the dismissal of an appeal or on conclusion of any Appeal hearing the College's internal procedures will have been exhausted and the student will be issued with a Completion of Procedures letter.

## **26. The Office of the Independent Adjudicator for Higher Education (OIA)**

The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. The College of Osteopaths is a member of this scheme. If you are unhappy with the outcome you may be able to ask the OIA to review the Fitness to Practise ruling. 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 if something has gone wrong here: <https://www.oiahe.org.uk/students>.

You normally need to have completed the Fitness to Practise process before you complain to the OIA. The College 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.

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/>

Scheme Application Forms are available from the OIA at:

Office of the Independent Adjudicator for Higher Education (OIA), Second Floor  
Abbey Gate  
57-75 Kings Road  
Reading  
RG1 3AB  
Tel: 0118 959 9813  
Email: [enquiries@oiahe.org.uk](mailto:enquiries@oiahe.org.uk)  
Website: [www.oiahe.org.uk](http://www.oiahe.org.uk)