

# COLLEGE OF INTEGRATED CHINESE MEDICINE

## FITNESS TO PRACTICE POLICY

### Introduction

Fitness to Practice is defined as a student's ability to demonstrate the requirements and responsibilities of the acupuncture profession related to their course of study.

Cases are dealt with on an individual basis and Fitness to Practice cases will be dealt with by CICM.

Student expenses associated with these Regulations will not be reimbursed by CICM regardless of the subsequent outcome.

Students have a personal responsibility to maintain and manage it and make decisions about whether they are able to treat patients competently. To do this they need insight and understanding into their own health and the ability to ensure that they can be responsible for the health and wellbeing of patients.

Insight and understanding means that students have a realistic, informed idea of their limits to competence and they understand the need to remain within the scope of practice laid down by the British Acupuncture Council's (BACc) Standards of Practice. This ensures that patients are not put at risk and that students or practitioners are not a danger to themselves.

There may be times when Fitness to Practice is 'impaired' (affected negatively). This may either be permanently or for a certain period of time. If this is the case it needs to be effectively monitored (see below 'Dealing with Concerns about Fitness to Practice'). A fitness to train is not a guarantee of a Fitness to Practice so while a student may be eligible to study acupuncture they will also need to show a Fitness to Practice before they will be eligible to apply for membership to the BAcC.

### Codes that provide guidance to Fitness to Practice

This BSc Honours degree course is validated by University College of Osteopathy and accredited by the British Acupuncture Accreditation Board (BAAB) under the auspices of the BAcC and it is a condition of this recognition that students agree to be guided in their professional behaviour by its Code of Professional Conduct, Code of Safe Practice and Standards of Practice for Acupuncture (all available from the BAcC website on [www.acupuncture.org.uk](http://www.acupuncture.org.uk).)

Further guidance can be obtained from the Clinical Code of Conduct.

### Monitoring Fitness to Practice and student's annual declaration

Applicants and students are required to sign an annual declaration form at the start of each academic year stating that they are safe to Practice. All offers of a place on the courses are subject to a declaration about their Fitness to Practice and any criminal record.

The College also has an obligation to ensure students do not proceed with their studies if they are not well enough to do so, or if they are not considered suitable to embark on the course of study for reason of Fitness to Practice.

It is important for applicants and students to ensure that they fully disclose all material facts. If a student is uncertain as to the relevance of any particular fact, it is better to disclose it.

All students will be assessed on their fitness to practice during the Level 6 module Developing Professional Practice.

A student who fails the fitness to practice element and / or fails all allowed attempts of the warning features examination, but has achieved an aggregate pass in this module and achieved the required credits for the award of an honours degree will be awarded the non-accredited degree of BSc (Hons) Chinese Medicine (Theory).

### **Areas covered by Fitness to Practice**

Specific Fitness to Practice issues are ones that might impair a student's ability to Practice acupuncture and includes areas such as:

- 1) Severe emotional, psychological or physical illness or disability, which might impair your ability to Practice acupuncture
- 2) Dependence on alcohol or drugs
- 3) Criminal records (in relation to certain offences)
- 4) Concerns regarding attitudes and behaviour including honesty

There is no exhaustive list of issues, but good health and good character are fundamental to Fitness to Practice.

Below is a definition of some qualities required of a student and qualified practitioner<sup>1</sup>.

### **Good Character**

Good character is central to Fitness to Practice in that acupuncturists must be honest and trustworthy. Students' good character is based on their conduct, behaviour and attitude. It also takes into account any convictions, cautions and pending charges that are likely to be incompatible with professional registration and the College expects students to honestly declare any convictions on an annual basis. A student's character must be sufficiently good for them to be capable of safe and effective practice.

### **Good health**

This is necessary to undertake practice as an acupuncturist. Good health means that a student must be capable of safe and effective practice. It does not mean the absence of any mental or physical disability or health condition. Many disabled people and those with health conditions are able to Practice with or without adjustments to support their practice.

### **Poor health and its implications**

If students are in poor health it means that they are affected by a physical or mental health condition that impairs their ability to Practice without supervision.

If students have a disability or a health condition, or have pending charges, a conviction or a caution, it will not necessarily prevent them from commencing the course or from becoming an acupuncturist. It is our experience that concerns regarding the Fitness to Practice of applicants or

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<sup>1</sup> Edited from the Nursing and Midwifery Council website for more information go to:  
<http://www.nmc-uk.org/Students/Good-Health-and-Good-Character-for-students-nurses-and-midwives/>

students are only a problem in a very small number of cases.

### **Seeking guidance**

If students are concerned about Fitness to Practice issues when applying for the course, in certain circumstances, a panel of two College Management Committee members will be convened to review individual circumstances in detail and to advise on the appropriateness of admission to or continuation on the course (please ask the Registrar for details of this process).

If applicants or students are worried that they will not be eligible to become a BAcC member once qualified they can seek guidance from the Professional Conduct Officer at BAcC.

The College will do all it can to ensure that all Fitness to Practice issues are investigated thoroughly but cannot be held responsible in the event of such issues preventing students from being admitted to the BAcC.

### **Expectations of students and graduates**

If a student's performance or judgement is affected by their health they may need to limit the way they Practice.

Before graduating from the College, students must consider whether they have the skills and training they need to Practice safely.

They are also expected to:

- Assess and review their own Fitness to Practice;
- Restrict or adapt their practice if anything (including their health, a disability, their skills or anything else) affects their Fitness to Practice.

This is a general expectation, which applies to all students and graduates not only those who consider themselves to have a health or disability issue, or those students who have told us about their health or disability.

Students will also be expected to pass the Professional Attitudes and Behaviours assessment and to sign and abide by the Clinical Code of Conduct.

### **Dealing with concerns about Fitness to Practice**

If concerns are raised about Fitness to Practice while studying on the course, as a result of a student's self-declaration or of concerns of College staff, a Fitness to Practice committee will be convened in order to deal with this.

## **Student Fitness to Practice & Professional Behaviour Policy - Procedure Stages 1-4**

### **Stage 1: Notification of a Fitness to Practice Concern**

Any member of staff or student who has reason to believe that there is a question as to a student's fitness to practise, as outlined in this policy, (hereinafter called the Complainant) should notify the relevant Dean by completing the "Breach of Student Fitness To Practise and Professional Behaviour Policy Notification Form" (Appendix 1).

The Dean will acknowledge receipt of the form usually within five working days of receipt, and will appoint an Investigating Officer (normally a member of the Management Committee not involved

with the case and who is a registered acupuncturist) to investigate the alleged breach of the Student Fitness to Practice Policy (hereinafter called the alleged offence).

The Dean will usually, within five working days of receipt of the allegation, notify the student who is alleged to have committed the offence that an investigation is commencing.

The Dean will initially appraise the gravity of the alleged offence against the Fitness to Practice Policy. If the Dean deems the alleged breach of policy to be highly serious s/he will recommend to the Joint Principal that the student is suspended whilst the investigation is undertaken. If the Joint Principal considers that the allegations justify the suspension of the student from the CICM, he/she must notify the student of his/her decision as soon as is reasonably practicable. The student may make a representation either orally or in writing to the Joint Principal against the suspension at this point. Suspensions will be regularly reviewed. The Joint Principal shall inform the University College of Osteopathy of any suspensions.

Where the conduct complained of seems likely to amount to criminal activity, the Joint Principal may decide to ask the police to initiate their own enquiries, in which case the Joint Principal may suspend the CICM's own procedures pending the outcome of the police enquiry. If reference to the Joint Principal is invoked at this stage, or if the student who is under investigation already has a current formal written warning on file, the Dean should inform the Registrar, who will arrange for a meeting of the Student Fitness to Practice Panel to be convened to meet at the completion of the Investigating Officer's report, irrespective of the findings.

## STAGE 2: INVESTIGATION OF THE FITNESS TO PRACTISE CONCERN

It is important to distinguish between the role of the Investigating Officer appointed by the CICM and the role of the Fitness to Practice Panel. The investigator considers the initial evidence and recommends to the Dean if it is serious enough to be referred to the Student Fitness to Practice Panel. The Panel's role is to deliberate formally and decide whether the student is fit to practice, and what sanctions, if any, should be imposed. The Investigating Officer may consider whether the behaviour is so serious or persistent as to call into question the student's ability to continue on the course, or their fitness to practice as a student, and as an acupuncturist after graduation. The investigator should not, as far as possible, be the student's personal tutor or anyone else who is involved in supporting the student or making decisions about their academic progress and should keep a full record of the investigation.

The appointed Investigating Officer will determine how to conduct the investigation. The investigation procedures will normally include a formal interview with the student who is alleged to have committed the offence. It may include interviews with witnesses to the alleged offence, an interview with the complainant and scrutiny of documentary evidence if appropriate. The Investigating Officer may also call for written statements.

If the investigation is regarding a student's lack of attendance, the Investigating Officer will be required to include the attendance statistics, any correspondence with the student (copies of emails/letters) and a statement from the relevant member of staff.

The student's academic profile should also be included in the report for the investigation.

The Investigating Officer must be appropriately trained and be able to act in a proportionate way by weighing the interests of patients, the public and colleagues against those of the student. It is important to consider whether the behaviour is better dealt with through student support and remedial tuition rather than through a formal panel hearing. However, if the Investigating Officer recommends that the behaviour is so serious or persistent as to call into question the student's ability to continue on the course, or their fitness to practice as a student, or as an acupuncturist after graduation, the case should be referred to the Fitness to Practice Panel despite any mitigating factors such as health problems.

The Investigating Officer will prepare a report of his/her findings and present the report to the Dean usually within ten working days of receiving the request to investigate. Any mitigating factors will be considered by the Dean when deciding on the appropriate outcome. The Dean will also ensure that any warning or sanction they decide upon is proportional to the behaviour and will deal effectively with the fitness to practice concern.

### STAGE 3: INVESTIGATION REPORT OUTCOME MEETING

On receipt of the Investigating Officer's report, the Dean will call a meeting to discuss with the student the outcome of the investigation and provide the student with a copy of the report. The student will be permitted to be accompanied by a friend: for example, a fellow student, or a member of academic staff. Their role will be pastoral and not representative. The CICM must be notified of the name and affiliation of the person concerned in advance of the meeting. It is not normally necessary to be accompanied by a legally qualified person, but if the student does decide to seek approval to be accompanied by such a person, the CICM reserves the right to include a legally qualified colleague to participate in the meeting. The Dean will appoint a secretary for this meeting.

The purpose of the meeting will be to determine whether, having considered the Investigating Officer's report and discussed the Fitness to Practice concern with the student, there are grounds for a hearing or referral to the Student Fitness to Practice Panel.

The possible outcomes to this meeting are as follows:

- a) The Dean finds that there is no case to answer and closes the proceedings;
- b) The Dean issues an oral warning concerning the student's future conduct and this will be noted on the student's record;
- c) The Dean issues a written warning concerning the student's future conduct and this will be noted on the student's record;
- d) The Dean decides that the case should be referred directly to a Student Fitness to Practice Panel;
- e) The Dean may recommend to the Joint Principal that the student should be suspended from the CICM whilst a Student Fitness to Practice Panel is convened.

If the student fails to attend the meeting with the Dean and produces no evidence of a justifiable reason for their non-attendance then the Dean shall recommend that a Student Fitness to Practice Panel is convened.

If a Student Fitness to Practice Panel is convened the student will be provided with guidance notes on the format of the panel and the possible outcomes by the meeting Secretary.

#### STAGE 4: STUDENT FITNESS TO PRACTICE PANEL

All Fitness to Practice cases to be considered by the Student Fitness to Practice Panel will usually be processed within ten working days of the referral being made by the Dean.

The Student Fitness to Practice Panel will consist of panel members that are independent of the investigation.

Panel members should have appropriate experience and receive training for their role. There should be a clear description of the requirements of the role. Panellists must: know and understand the rules and regulations of fitness to practice and disciplinary matters at the CICM, be fair-minded and willing to hear the full facts of the case before reaching a decision and be prepared to seek appropriate expert advice, making sure fitness to practice proceedings are fair and proportionate.

A student who is referred to the Student Fitness to Practice Panel will receive a notice in writing giving a brief but clear specification of the charge and providing at least five working days' notice to appear before the Panel.

The student will be notified that he/she may call such witnesses in defence as he/she may think fit and must inform the Secretary of the Panel of the names of those witnesses in advance of the hearing.

The student will be notified that a fellow student or a student representative at the hearing may accompany him/her and that he/she should approach either the Secretary of the Panel for advice as to the procedure, and guidance to help put together information for the hearing.

The student will be permitted to be accompanied by a friend: for example, a fellow student, or a member of academic staff. Their role will be pastoral and not representative. The CICM must be notified of the name and affiliation of the person concerned in advance of the meeting. It is not normally necessary to be accompanied by a legally qualified person, but if the student does decide to seek approval to be accompanied by such a person, the CICM reserves the right to include a legally qualified colleague to participate in the meeting.

The Panel will, as a minimum, receive a written statement of the allegation, the Investigating Officer's report, any supplementary report (which the Chair may commission from another member of staff acting in a capacity comparable to that of the Investigating Officer), and a written statement from the student alleged to have committed the offence.

The student may admit the alleged fitness to practice issue at any time prior to the day of the hearing by notifying the Secretary of the Panel. Any admission should be recorded in writing with an accompanying reflective account that clearly demonstrates reparation which should be signed by the student. The Panel will still convene to determine the outcome and the student may attend to address the Panel prior to the penalty being decided to offer a justification or mitigation for his/her actions. The Panel should take into account the student's prior admission when deciding the outcome.

Where the student has not admitted the issue of non-fitness to practice prior to the day of the hearing, the hearing will normally take the following form:

The Panel will receive written and/or oral evidence from the Investigating Officer and his/her witnesses as to the nature of the alleged fitness to practice issue in the presence of the student and his/her colleague.

The secretary of the panel will ask the student if they would like to question the Investigating Officer before the panel is held. The student will need to confirm this in writing. If there is no response, the Chair of the Panel may call the investigating officer and the panel will convene as scheduled.

The student will then be invited to give written and/or oral evidence, and may call his/her witnesses. This may involve evidence of mitigation for his/her actions.

The Panel may question all parties.

After all the evidence is heard, both parties will be asked to withdraw, and the Panel will arrive at a decision.

If the allegation is proven on the balance of probability, the Panel will determine the outcome taking into account the student's disciplinary record. Possible outcomes of the Panel hearing are listed below.

The secretary to the Panel will write to the student with its decision, usually within five working days of the date of the hearing.

The secretary to the Panel will inform the Registrar of its decision and this record will be kept by the Registrar.

The Dean will support the student in arranging conditions or sanctions and will monitor the student's progress.

The student will be notified in writing of the names of the senior management / faculty members who will be privy to the outcome(s) of the investigation.

The secretary to the Panel will collect any reports required from the student with regard to any conditions/sanctions and the Panel will reconvene at a pre-set date to review the student's report. This meeting will be documented and a record of it will be kept on the student's file.

## OUTCOMES OF STUDENT FITNESS TO PRACTICE PANEL HEARINGS

Possible outcomes of Fitness to Practice Hearings include:

- a) The student receives no advice, warning or sanction.
- b) The student receives an advisory note.
- c) The student receives a warning as there is evidence of misconduct but the student's fitness to practice is not impaired to a point requiring any of the sanctions listed below.
- d) The student receives a sanction. Beginning with the least severe, the sanctions are:
  - i. Undertakings.
  - ii. Conditions
  - iii. Suspension from the course.
  - iv. Expulsion from the course.

All warnings or sanctions will be kept on the student's file for 6 years.

Fitness to Practice Panels should refer to the Glossary of Terms below when considering outcomes of hearings.

The panel will make the objectives of any conditions clear, so the student knows what is expected of them. Conditions should be:

- Specific.
- Proportionate.
- Workable.
- Time bound.
- Measurable.
- Monitored.

## GLOSSARY OF TERMS FOR USE BY STUDENT FITNESS TO PRACTICE PANELS

### WARNINGS

Warnings are formal statements that indicate that your behaviour is unacceptable. Warnings will be given when your behaviour raises concerns but it is not so serious that your fitness to practise is impaired. Support will be provided for you to address any underlying problems that may have contributed to your poor behaviour.

Any subsequent incidents may be considered in light of earlier warnings. Patterns of poor behaviour may give rise to more serious concerns about your fitness to practice.

A warning means your behaviour does not merit a sanction. But it will remain on your record until you complete the course.

A warning may be deemed appropriate particularly when:

- a) The behaviour in question does not involve dishonesty, offences of a sexual nature or a lack of insight or responsibility, and
- b) There have been no previous concerns about your fitness to practise.

Panels might consider issuing a warning if:

- a) There was no direct or indirect patient harm, and
- b) The panel is satisfied that you will take the warning seriously, and
- c) You have provided insight into why your behaviour was inappropriate, and
- d) The behaviour was serious enough to warrant formal recognition.

### SANCTIONS

The purpose of the four types of sanction is to ensure that students whose fitness to practise is impaired are dealt with effectively, including possibly being removed from the course. A sanction also gives you the opportunity to learn from your mistakes.



Panels will consider whether the sanction will protect patients and the public and will maintain professional standards. If the behaviour involves dishonesty, offences of a sexual nature, or a lack of insight, lower-level sanctions are unlikely to be appropriate.

## 1) UNDERTAKINGS

An undertaking is a promise given by you in writing to the panel that you will not behave in a certain way in the future. This sanction applies when there is a finding that your fitness to practice is impaired. You will be asked to consent to disclose this sanction to appropriate people and you may be required to declare it at the point of BAcC registration.

If you break the undertaking, you may be dealt with by other sanctions.

Undertakings will be proportionate, workable and measurable. Examples of sanctions may include increased supervision, regular monitoring of student progress, a reflective account of the concern and/or further training. This list is not exhaustive.

Panels may want to consider an undertaking if:

- a) It will be sufficient to protect patients and the public, and
- b) It covers all the conditions the panel would otherwise have imposed, and
- c) The behaviour did not involve dishonesty or a sexual offence, and
- d) You have provided insight into the seriousness of the problem and are willing to respond positively to any interventions, and
- e) You have apologised and expressed genuine regret.

## 2) CONDITIONS

Conditions are appropriate when there is significant concern about your behaviour. This sanction will be applied if the panel is satisfied that you might respond positively to remedial tuition and increased supervision. The panel will consider any evidence such as reports on your performance, health or behaviour.

If a panel has found your fitness to practice impaired because of poor physical or mental health, the conditions may include additional clinical supervision as well as academic supervision and an expectation of evidence of further reflective development. You will be asked to consent to disclose this sanction to the appropriate people.

Conditions will be proportionate, workable and measurable. Examples of conditions may include but is not exhaustive increased supervision, regular monitoring of student progress, a reflective account of the concern and/or further training.

Panels may want to consider conditions if:

- a) Patients will not be put at risk as a result of your being allowed to continue on the course, and
- b) The behaviour did not involve dishonesty or a sexual offence, and
- c) You understand the seriousness of the problem and are willing to respond positively to any interventions, and
- d) You have apologised and expressed genuine regret, and
- e) There is a realistic chance that you will positively change your behaviour.

### 3) SUSPENSION

Suspension prevents you from continuing with your course for a specified period and graduating at the expected time. Suspension is appropriate for misconduct that is serious but not so serious as to justify expulsion from the CICM.

When you return from suspension, you are expected to comply with any further conditions. You will be asked to consent to disclose the suspension and conditions to the appropriate people.

The panel might want to consider a suspension if:

- a) A less severe sanction is not appropriate, and
- b) The behaviour is unlikely to be repeated, and
- c) You have provided insight into the seriousness of the problem and are willing to respond positively to any interventions, and
- d) There is a realistic chance that during the period of suspension you will positively change your behaviour.

### 4) EXPULSION

The panel can expel you from the CICM if they consider that this is the only way to protect patients, carers, relatives, colleagues or the public. You will be offered support to enable you to transfer to another course if appropriate. However, the nature of your expulsion may mean that you should not be accepted on certain courses, or even on any other course.

Expulsion, the most severe sanction, should be applied if your behaviour is considered to be fundamentally incompatible with continuing your studies or eventually practising as an acupuncturist.

### APPEAL PROCEDURE

Within five working days of the decision's being notified, a student may appeal in writing to the Dean against the outcome of the Fitness to Practice Hearing outcome stating the full grounds of the appeal.

If a student is issued with a warning from the Panel an appeal will not normally be considered.

If in the view of the Dean the grounds of appeal cast doubt on the validity of the panel's decision, they will convene an Appeal Hearing to re-examine the case in the light of any additional evidence provided by the student as follows:

- a) Where the student was issued with a penalty other than permanent exclusion or suspension, the Joint Principal (or their nominee) will hear the appeal. Unless it is deemed appropriate by the Joint Principal, there will be no re-hearing of the matter.
- b) Where the student was issued with a sanction consisting of either permanent exclusion or suspension, an Appeal Panel will hear the appeal.

The Appeal Panel will consist of:

- a) Three Board Members of the CICM nominated by the Chair of the Council, one of whom will act as Chair and at least two of whom will be external to the CICM.

- b) A Secretary appointed by the Dean.

The Appeal Panel will normally sit within fifteen working days of the receipt of the appeal.

The student will be permitted to be accompanied by a friend: for example, a fellow student, or a member of academic staff. Their role will be pastoral and not representative. The CICM must be notified of the name and affiliation of the person concerned in advance of the meeting. It is not normally necessary to be accompanied by a legally qualified person, but if the student does decide to seek approval to be accompanied by such a person, the CICM reserves the right to include a legally qualified colleague to participate in the meeting.

The student will be provided with a copy of the minutes of the proceedings of the Student Fitness to Practice Panel hearing.

The Appeal Hearing will normally take the following form:

- a) A nominated member of staff appointed to answer the appeal will address the Appeal Committee.
- b) The student, who may be accompanied by a colleague, will then address the Appeal Committee.
- c) If additional witnesses are permitted then these will be called and will be liable for cross-examination.

The parties will be required to withdraw while the Appeal Panel considers its decision.

The outcome of the appeal will be communicated to the student by letter normally within five working days of the hearing and a copy of this letter will be sent to the Registrar and held on the student's file.

Where a student's appeal is successful, the case will be referred back to the Student Fitness to Practice Panel, who will reconsider the case in the light of the Appeal Panel's comments and representation from the student.

Where a student's appeal is unsuccessful, whether or not the penalty involves suspension or dismissal, the CICM will issue a Completion of Procedures letter to the student, advising them of their right to refer the matter to the University College of Osteopathy (see below).

#### REFERRAL TO THE UNIVERSITY COLLEGE OF OSTEOPATHY & OFFICE OF THE INDEPENDENT ADJUDICATOR FOR HIGHER EDUCATION

If the student remains dissatisfied with the College's response to their appeal or complaint, they have the right to refer matter to the Deputy Vice-Chancellor (Education) at the University College of Osteopathy for review within 21 days from receiving the appeal decision.

The decision of the Deputy Vice-Chancellor (Education) is final and a Completion of Procedures Letter shall be provided to the applicant.

The student may also refer the matter to the Office of the Independent Adjudicator for Higher Education (<http://www.oiahe.org.uk/>).

Review date: 2022