



## Fitness To Practise Policy and Procedure

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Directorates and Departments affected. by this Policy	All Staff
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New College Durham is committed to safeguarding and promoting the welfare of children and young people, as well as vulnerable adults, and expects all staff and volunteers to share this commitment.

If you require this document in an alternative format and/or language, please contact [Registry@newdur.ac.uk](mailto:Registry@newdur.ac.uk)

We review our policies regularly to update them and to ensure that they are accessible and fair to all. All policies are subject to equality impact assessments which are carried out to determine whether the policy has, or is likely to have, a different impact on those with protected characteristics. We are always keen to hear from anyone who wants to contribute to these impact assessments, and we welcome suggestions for improving the accessibility of fairness of this and all College policies. The College's Senior Leadership Team will have overall responsibility for reviewing and approving this policy.

To make suggestions or to see further information please contact: [Julie.coverley@newdur.ac.uk](mailto:Julie.coverley@newdur.ac.uk)

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## Scope

New College Durham is committed to maintaining a safe and conducive environment for its students, staff, and visitors. The purpose of this policy is to make explicit the College's intentions, expectations, and actions with respect fitness to practise.

Students whose programmes are regulated by [Health and Care Professions Council](#) (HCPC), [Social Work England](#) (SWE) or other programmes governed by a professional regulatory or statutory code, are subject to this fitness to practise policy and procedure. Fitness to practise is the ability to meet professional standards, and includes factors such as your personal character, professional competence, and overall health.

The Office of the independent adjudicator ([OIA](#)) stipulates providers have a duty:

- to ensure that students on a professional programme are fit to practise in that profession or will be when they complete the programme;
- to protect present or future patients, clients, service users and members of the public;
- to safeguard public confidence in the profession;
- to comply with the requirements of professional/regulatory bodies; and
- to ensure that students are not awarded a qualification that permits them to practise a profession if they are not fit to do so.

It is important to understand the difference between a student's academic abilities and whether a student is fit to practise. A student might be excelling in their academic studies, but they could still be seen as not the right fit for a profession if they lack the necessary skills, have health issues that could affect their work, or if their behaviour doesn't meet the standards set by the professional body overseeing their programme of study.

Where providers receive concerns about a student who is already a registered member of a profession, then they also have a responsibility to raise those concerns where applicable with the relevant professional body, the Disclosure and Barring Service, and/or the student's employer.

In a situation where a student is unable to demonstrate the required level of competence, and after all possible options have been thoroughly explored by both the student and the College, without reaching a mutually agreeable resolution, it may be considered as a way forward to implement the fitness-to-practice procedure.

## College Responsibilities

1. the Senior Leadership Team (SLT) is responsible for ensuring the College has a policy on Fitness to Practise in accordance with Office of the independent adjudicator (OIA) recommendations;
2. Heads of School/Curriculum Managers are responsible for ensuring students have available to them before the start of their programme and throughout their time of study, details of the Professional, Statutory, and Regulatory Bodies (PSRB) requirements that apply to their specific programme of study;
3. curriculum teams are responsible for ensuring students have:
  - a. available access to information related to the policy and procedures associated with fitness to practise; and

- b. are offered support and guidance from the College where students are subject to an allegation of fitness to practise.

All members of staff adhering to this policy and procedure will guarantee the sensitive and efficient handling of matters within reasonable timeframes, whenever feasible.

While issues connected to these proceedings are handled with highest confidentiality concerning all the involved parties. It is important to note that the College maintains the right, and in certain instances, is legally obligated, to inform professional, statutory, and regulatory bodies (PSRBs) and/or relevant organisations, which may include but are not limited to the Police, Social Services, student loans, UCAS, etc.

#### Student Responsibilities:

1. students must be aware that their physical or mental health could be an acceptable reason for them to be considered unfit to practice, even considering the provisions outlined in the Equality Act 2010;
2. students are required to disclose any criminal convictions (including spent convictions under the provisions of the Rehabilitation of Offenders Act 1974) and inclusion on the Disclosure & Barring Service 'barred lists' during admission to the programme and whilst the student remains registered on their programme of study;
3. this policy also requires students to fully acknowledge and actively engage in fulfilling their responsibilities by:
  - a. making themselves familiar with this Policy and the Fitness to Practise regulations that apply to their specific programme of study; and
  - b. making themselves fully aware of the Professional, Statutory, and Regulatory Bodies (PSRB) standards and expectations specific to their programme of study.

#### Relationship with existing policies and regulations

- [Academic Integrity Policy](#)
- [Safeguarding Children and Adults at Risk Policy and Procedure](#)
- [Fitness to Study Procedure](#)
- [Comments, suggestions, compliments, and complaints](#)
- [HE Academic Malpractice](#)
- [Data Protection Policy](#)
- [Substance Misuse Policy](#)
- [Disciplinary Procedure for Students](#)

#### Timeliness

We acknowledge that these situations can induce significant stress for students and the resulting decisions can have profound implications on their academic interests and future professional careers. Therefore, the College recognises that the investigation, hearing, and appeals processes are advanced as quickly as possible whilst still upholding our principles of fairness therefore, where possible we will:

- tell the student as soon as possible that fitness to practise concerns have been raised and
- aim to complete the process, including any appeal, within 90 College days of the student being told of the concerns.

On occasions it may be necessary for the process to take longer than 90 College days where, for example, the case is complex, or where proceedings are put on hold because of a criminal investigation or the student's impending assessments.

The College may also sometimes find it difficult to assemble a panel with the right professional involvement, or with panel members that have had no previous involvement in the fitness to practise concerns. In those cases, the College will keep the student and any witnesses informed. The College will provide to the student clear and effective communications notably (but not exclusively) in any decision reached.

### **Fitness to Practise Concerns**

Fitness to practise concerns may come from a variety of sources including, but not limited to, another student, a work placement provider, a member of the public or a member of staff. Students are also required to update the College whenever there is a change to their DBS status or health. Areas of concern which may raise questions about whether a student is fit to practise cover a wide range of categories, examples of which are set out in Appendix 1.

Note - If any allegations are made against students, via the police or Local Authority Designated Officer (LADO), or if the alleged conduct would constitute a criminal offence, the Fitness to Practise process will be held pending the outcome of any police investigation or court proceedings.

If during study, a student's physical and/or mental health gives cause for concern that the student's ability to practise in their vocational area is impaired, information may be required to be obtained from a medical practitioner. If the concern arises out of a disability as defined by the Equality Act 2010, the College will explore whether reasonable adjustments can be made and where appropriate, a workplace risk assessment will be undertaken. Further responsibilities regarding concerns around a student's physical and/or mental health can be found in Appendix B.

If a student withdraws from their programme, after proceedings have started, the College reserves the right to continue with the proceedings. Proceedings may also be reinstated for students that have been reinstated on to their programme or that have applied onto another relevant professional programme.

### **Precautionary Suspension**

The College has a duty of care to students, fellow students, staff, and the wider community including patients, clients, and members of the public. In serious cases where there is substantial risk, the College may take action to suspend a student from study. This will be considered in relation to both attendance at college and placement where the risk is only in relation to patients, clients, a student may be suspended from their placement or clinical settings only. Such a suspension can be traumatic so support must be offered to the student via the available college support, consideration may be also given to the timing of such suspensions, i.e. not normally before a weekend etc, clearly if clinical or risk dictates such a suspension at timing that is not ideal then support should be provided to the student.

The purpose of the suspension is to protect the student, fellow students, staff, and the wider community pending the investigation or completion of the Fitness to Practise Procedure. The Principal or a member of the ELT, will consider the risk that the student poses to the College community, placement providers, patients and/or members of the public.

If a student is suspended from the College, they will be provided with learning material to enable them to continue with their studies whilst the investigation takes place. When on suspension from a placement the student must not contact any member of staff from the placement unless agreed by the Curriculum Manager.

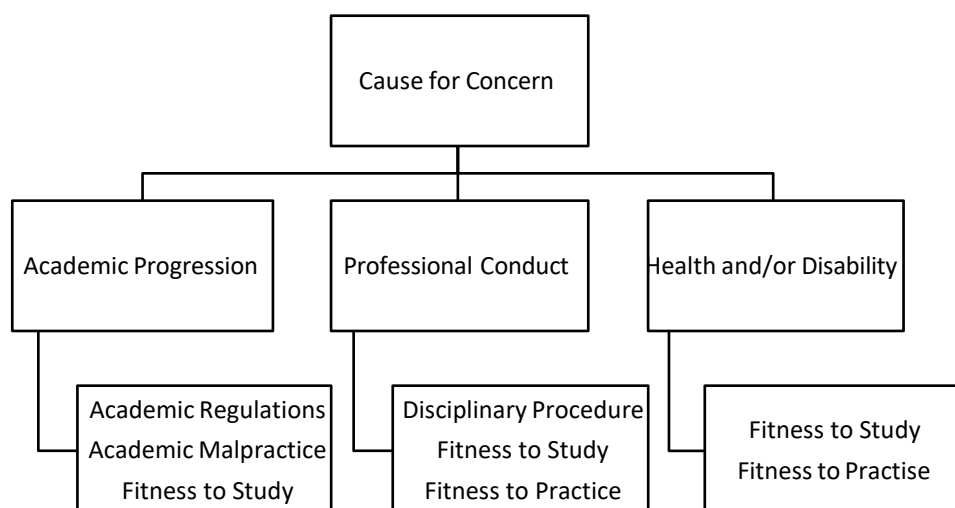
The suspended student will be given written confirmation of the suspension and the reason for the suspension.

## **Fitness to Practise Procedure**

### **Stage 1 - Cause for Concern (informal stage)**

Concerns may come from a variety of sources including, but not limited to, another student, a work placement provider, a member of the public or a member of staff. Students are required to report any issues that might be considered a fitness to practise concern, either about themselves or another student, to their Tutor or Programme Leader who will inform their Head of School. Students are also required to update the College whenever there is a change to their DBS status or health. Areas of concern which may raise questions about whether a student is fit to practise cover a wide range of categories, some examples of which are set out in Appendix 1.

Any concerns raised must be reported to the Head of School and if appropriate the Head of School will take advice from the review panel (consisting of Vice Principal HE or the Deputy Principal, Director of HE or the Assistant Principal for HE Partnerships, Administration Manager and the reporting Head of School) to discuss the most appropriate way forward. Depending on the nature of the concern action will be taken using one or more of the following procedures:



The review panel will consider the needs of the student, their stage of programme, the nature of the alleged issue/concern and the implications for public protection. An assessment based on the evidence presented will be made about whether to bring this to the student's attention if not already known.

If the concern arises from an external event such as a criminal investigation or LADO notification, the case will normally proceed directly to the Hearing Stage.

The panel may consult with relevant Programme Leaders and/or other Support Services within the College regarding the plan for the most suitable outcome. Additionally, they will work to establish, as far as practicably possible, that the evidence provided is not of a vexatious nature.

The Panel Review meeting will conclude with which course of action should be taken (if any) based on the level of concern raised. Concerns which take place outside of the College or within the work placement setting can also be considered under this policy.

If, during the consideration of a concern, there is the possibility of a criminal offence having been committed, the matter may be referred to the police or other relevant Authorities of alleged criminal offences.

The decision to suspend a student from practice or programme can also be determined at the cause for concern stage, this is decided on a case-by-case basis and based on a risk assessment. This would be a proportionate response to the possible risk to themselves or others. If the student remains in practice whilst awaiting the outcome of an investigation, conditions of practice may be imposed.

The Head of School will be responsible for informing the student of the appropriate action being taken, based on the outcome of the cause for concern review meeting. Fitness to practise concerns will normally be dealt with further through the following two stages:

- Stage 2 - Investigation Stage (Investigation / assessment)
- Stage 3 – Hearing Review Stage (formal)

The Fitness to Practice Panel correspondence will provide an explanation of the decision reached, which will be supported by a clear rationale for the decision (drawing on the key evidence, professional guidance and mitigation). The correspondence will examine all the sanctions considered (including acquittal) by the panel and providing a rationale for the final outcome. Prior to the outcome being communicated in writing to the student, a quality check of the correspondence will take place by a member of the Senior Leadership Team, to ensure that the communication meets the clear expectations of this Policy. Should the communication not satisfy the clear communications obligations within this policy it will be returned to panel members for reconsideration and refinements. **The QA Process cannot change the outcome of the panel, but it can require refinements to the communication to make the decision clearly for the student.**

## **Stage 2 – Formal Investigation**

If the review panel concludes this concern does raise a fitness to practise concern regarding conduct / behaviour or regarding the student Health and well-being an investigation Manager will be appointed by the Vice Principal, to take the responsibility of fully investigating the concern/s to ensure both fair and adequate outcome of any fitness to practise decisions.

The purpose of the fitness to practise investigation is to:

- identify, gather, and analyse all relevant information, delving into the primary concerns or issues that have been raised. This includes those initially identified, as well as any that may surface during the investigative process; and



- identify whether the information identified points to a potential risk to public safety, breach of professional standards or impact on the reputation of the profession relating to the appropriate professional, statutory and regulatory body (PSRB).

The investigation will be carried out in a timely manner (usually within five calendar days), with due consideration given to minimising any potential disruptions to the student's academic studies, whenever feasible. However, it's essential to acknowledge that achieving minimal disruption might not be attainable in certain situations, particularly when involving statements from external parties or requiring medical and other assessments. In such cases the investigation manager will keep all relevant parties informed.

The investigation manager will not form any decisions regarding the impairment of a student's fitness to practise and will not participate in any subsequent decision-making stages. This practise is implemented to uphold the independence and full impartiality of all decisions made throughout the entirety of the fitness-to-practise procedure.

In the first instance the Investigating Manager will contact the student in writing (usually via email, followed by a letter) to communicate the specific concerns raised and will invite the student to a meeting to enable the student to respond to concerns raised. In this communication it will also outline the procedure to be followed, as described below:

- the purpose of the meeting;
- the reported concern and any evidence submitted;
- the fitness to practise investigation process and timeline;
- the right to be accompanied by a relative or representative of the Students' Union; and
- the contact information of the students' support services available.

The investigation may entail speaking with other students, staff members, and, when applicable, external parties like placement providers or professionals in health, education, or social care. These discussions are conducted to gather additional information that may contribute to the investigation's thoroughness.

At all stages of this policy and procedure, including the investigation stage, a student has the right to be accompanied by a relative or a representative of the Students' Union.

The standard of proof applied to each of the stages is based upon the balance of probabilities.

A report will conclude the investigation and be returned along with all the supporting evidence to the Review Panel for review to determine the appropriate action.

If the Review Panel, consider that the student's fitness to practise is likely to be impaired, a formal fitness to practise hearing will be convened.

If the Review Panel find that the case does not meet the threshold for a Formal fitness to practise hearing the review panel will decide as to the most appropriate course of action.

Potential actions may include (but are not limited to):

- take no further action;
- student attends a meeting with the Vice Principal/Head of School and tutor where guidance is given regarding conduct & behaviour;
- student attends a referral to an appropriate Support Services; and

- local Resolution – An action plan is drawn up setting out how the matter will be managed by the School and any requirements placed on the student.

## **Stage 2b - Formal Hearing Stage**

If, as a result, of the investigation stage or the initial cause for concern stage, it has been determined that there is cause for concern regarding fitness to practise, the case will proceed to the formal Hearing stage. A member of the Senior Leadership Team (SLT) will be designated as the chair by the Vice Principal for HE. The Hearing Meeting is a formal panel meeting that will consider the risk against the professional standards the student is studying based on the evidence gathered during the investigation stage.

The Hearing panel membership will be as follows:

- a member of the Senior Leadership Team (SLT), or nominee, unconnected to the case, who will act as Chair;
- one member of the associated profession, based in practice, unconnected with the case, and not employed by the College;
- an academic member of staff from the school who is professionally qualified in the subject/professional area in which the student is enrolled;
- an academic member of staff from a School different from which the student is enrolled; and
- a secretary to the panel will also be in attendance to take minutes of the proceedings and outcomes.

All parties will be given at least seven College working days' notice of the meeting and will be provided with the following information:

- full details of the nature of the concern including a copy of all the relevant documentary evidence, and the name/s of all witnesses being called with copies of their witness statements;
- notification of the students' right to be accompanied by a relative or a representative of the Students' Union;
- details of where the student can seek advice/support;
- the date, time, and venue of the Stage 2b panel meeting;
- a copy of the Fitness to Practise policy and procedure; and
- the notification will also ask the student to inform the Chair of any adjustments to the process they require owing to a disability or specific learning difficulty.

It is the student's responsibility to review all documents they receive and promptly notify the Fitness to Practise administrator of any aspects needing additional clarification to support their own case, ensuring this is done at least 48hrs prior to the hearing.

The student can request to call witnesses who have relevant evidence to provide in respect of their defence and/or mitigation. The witnesses will be invited into the meeting to present their evidence and will be requested to leave at the conclusion of their evidence. Panel members may ask questions of witnesses for the purposes of seeking clarification.

It is the student's responsibility to inform their witnesses of the date, time and venue of the hearing and provide them with copies of appropriate documentation. Details of any witnesses being called must be submitted to the Chair 3 working days in advance of the meeting date.

## Confidentiality of Proceedings

Personal Data will be shared with panel members on the basis that the student has entered into a contract with the College and is fully aware of the professional standards that apply to their programme and the existence of this Fitness to Practise Policy. Special Category Data will be shared with Panel members with the consent of the student who is subject to the Fitness to Practise investigation. Personal or Special Category Data processed must:

- be necessary and proportionate to the investigation;
- not be further shared, used or held by panel members when the panel is completed; and
- be treated confidentially and held securely by all parties.

## Hearing Process

1. the member of staff who has investigated the concern will present the case against the student and the process followed to date:
  - a. members of the panel can ask questions for further clarification; and
  - b. student and/ relative/representative of the Students' Union can ask questions for further clarification.
2. witnesses who have made statements during the case will be individually called for the purpose of any clarification required by either the panel or student:
  - a. members of the panel can ask questions for further clarification.
3. the Chair will ask the student and/or friend/support to present any witnesses:
  - a. members of the panel can ask questions for further clarification;
  - b. student and/or relative/representative of the Students' Union can ask questions for further clarification; and
  - c. the investigating manager can ask questions for further clarification.
3. the Chair will ask the student and/or relative/representative of the Students' Union, the Investigating Officer, and any remaining witnesses to leave the Hearing whilst deliberations take place.

The panel would establish if the allegations raised in relation to Fitness to practise are proven or not proven and may determine one of the following outcomes:

1. to defer a decision pending the receipt of further information and/or advice;
2. to dismiss the case as unproven, with no further action taken; or
3. the matter to be more appropriately dealt with under another College procedure.

Where the case is proven, the panel will apply one of the following outcomes:

4. local resolution – An action plan is to be drawn up setting out how the matter will be managed by the School and any requirements placed on the student;
5. the student continues in practice with reasonable adjustments being made to ensure their ability to meet professional standards;
6. a written warning issued to the student and held on the student's personal file advising of the consequences of a further breach of professional, regulatory, and statutory body requirements and requiring the student to give a written undertaking as to their future good conduct;
7. the student is required to interrupt their studies for a specified period and be subject to identified conditions prior to re-engaging with their studies; and

8. a recommendation be made to the Deputy Principal that the student be withdrawn from the programme on the basis that the impairment of the student's fitness to practise is irremediable.
  - a. this outcome should be considered as a last resort and in reaching this decision the Panel should consider if it would be appropriate or otherwise for the student to remain a student at New College Durham but not on a course leading to a professional registration.

Where a Hearing Panel has found a case against a student proven the Chair is responsible for notifying the Chair of the relevant Assessment Board of the panel's decision, to inform progression/award decisions.

Where a case is proven, the College may disclose outcomes of the case and/or specified conditions imposed with an employing organisation, placement provider, PSRB, or DBS in line with data protection.

Within three- College working days, all relevant parties shall be informed, in writing, of the decision of the hearing panel. The Fitness to Practice Panel correspondence will provide an explanation of the decision reached, which will be supported by a clear rationale for the decision (drawing on the key evidence, professional guidance and mitigation). The correspondence will examine of all the sanctions considered (including acquittal) by the panel and providing a rationale for the final outcome. Prior to the outcome being communicated in writing to the student, a quality check of the correspondence will take place by a member of the Senior Leadership Team, to ensure that the communication meets the clear expectations of this Policy. Should the communication not satisfy the clear communications obligations within this policy it will be returned to panel members for reconsideration and refinements. The QA Process cannot change the outcome of the panel, but it can require refinements to the communication to make the decision clearly for the student. Additional to this the student will receive a Completion of Internal Procedures letter (COIP).

#### **Exceptions (what this document does not cover)**

If any allegations are made against students by the police, or if the alleged conduct would constitute a criminal offense, the Fitness to Practise process will be held pending the outcome of any investigation or court proceedings.

This document does not apply to students studying qualifications that do not require them to register with a PSRB to practise a profession or follow a PSRB's Code of Ethics or other professional standards documents.

#### **Evaluation and Review**

The effectiveness of this policy will be monitored annually and reviewed every five years to ensure it meets the requirements of the Curriculum's professional bodies and considering experience and best practise.

## Appendix A

Examples of where fitness to practise concerns may arise include, but are not limited to, instances where a student has, or is suspected of having:

- 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;
- aggressive, violent, or threatening behaviour whether verbal, virtual or physical including assault, physical violence, bullying, harassment and abuse;
- publication of inappropriate information, comments, or images, including on social media platforms;
- unprofessional behaviour including breach of confidentiality; failure to maintain appropriate professional boundaries; failure to treat others with dignity and respect; unlawful discrimination; absence from practise placement without permission; failure to work within limits of professional competencies;
- persistent inappropriate attitude or behaviour including failure to accept educational advice, poor attendance, poor time management or communication skills, failure to submit coursework, failure to observe or comply with the rules of the College, failure to demonstrate an attitude or demeanor appropriate for individuals working in the profession concerned;
- criminal convictions including theft; fraud; possessing or dealing in illegal substances; child abuse or any other form of abuse;
- failure to inform the College of a criminal offence, reprimand, or investigation by the police or a relevant professional or statutory body;
- dishonesty including falsification of professional records, qualifications, or signatures; serious, intentional, or persistent cases of unfair practise including, cheating, plagiarism and any other form of unfair Practise including research misconduct;
- any form of drug or alcohol misuse, such as using drugs inappropriately or consuming alcohol and drugs that disrupt the work or study environment, as well as driving under the influence of alcohol or drugs, is strictly prohibited;
- failure to comply with PSRB requirements in relation to standards of acceptable conduct and fitness to practise required for entry on to the relevant professional register; and
- a decision by another awarding body that the student is not fit to practise.

## Appendix B - Students Responsibilities in Relation to Health

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*Throughout a student's programme of study Students are required to inform their Personal tutor of any changes in their physical and/or mental health which could affect their fitness to practise*

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To demonstrate that students are fit to practise, students should:

- be aware that their health problem(s) may put themselves or others at risk;
- take proactive steps to consult with medical or occupational health professionals when concerns arise regarding their health, including mental health;
- recognise that they may not be able to assess their own health accurately and be open to be referred for treatment or support and to engage in any recommended treatment / support programmes;
- avoid solely relying on their own assessment of the risk their health problem(s) poses to themselves or others and seek advice and guidance from qualified healthcare professionals either inside or external to the College; and
- understand their responsibility while on placement, which includes promptly informing their supervisor or an appropriate authority if their health condition poses any risks to themselves or others, as well as disclosing any health-related issues.

## Appendix C – Students Responsibilities in Relation to Conduct

All students must adhere to the code of conduct, Awarding Regulations, and professional standards established by Open University, New College Durham and the professional standards for their particular programme of study. These standards encompass several key areas:

1. establish and maintain the trust and confidence of people within the College, placement environment as well as the wider community;
2. upholding probity, which includes honesty, trustworthiness, and acting with integrity,
3. maintaining high standards of practice;
4. collaborating effectively with colleagues and the wider community;
5. act respectfully and always with professional integrity;
6. be accountable for own professionalism; and
7. prioritising health and well-being.

Additionally, students are expected to abide by the rules, regulations, policies, procedures, and codes of conduct set by the professional, statutory, and regulatory body overseeing their programme of study. For specific guidance, please visit the appropriate site.

Programme of Study	PSRB Requirements
BA (Hons) Social Work	<a href="https://www.socialworkengland.org.uk/education-training/students-and-graduates/">https://www.socialworkengland.org.uk/education-training/students-and-graduates/</a>
BSc (Hons) Podiatry	<a href="https://www.hcpc-uk.org/standards/">https://www.hcpc-uk.org/standards/</a>

Prospective applicants and enrolled students must also disclose any criminal convictions, including spent convictions under the Rehabilitation of Offenders Act 1974, and their inclusion on the Disclosure & Barring Service 'barred lists.' This disclosure is required before admission to the New College Durham.

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*Throughout a student's programme of study Students are required to inform their Tutor of any potential changes to their original disclosure which may affect their fitness to practise*

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