Fitness to Practise Policy

1. Guiding Principles

1.1 This policy has been put together following the guidance from the Office of the Independent Adjudicator for Higher Education's Good Practice Framework: Fitness to Practise (2019)

1.2 Fitness to practise is defined as the ability to meet professional standards; it is about character, professional competence and health. According to the Health and Care Professions Council (HCPC), someone is fit to practise if they have "the skills, knowledge, character and health to practise their profession safely and effectively".

1.3 Mid Essex ITT has a duty:

i. to ensure that trainees on a professional course are fit to practise in the teaching profession, or will be when they complete the course;
ii. to protect present or future trainees, school staff, Mid Essex ITT staff and members of the public;
iii. to safeguard public confidence in the teaching profession;
iv. to comply with the requirements of professional/regulatory bodies such as the Department for Education; and
v. to ensure that trainees are not recommended for Qualified Teacher Status (QTS) that permits them to practise teaching if they are not fit to do so.
vi. Mid Essex ITT recognises that fitness to practise is closely linked to safeguarding responsibilities. Concerns about a trainee's conduct or behaviour may also represent safeguarding concerns and will be managed in line with relevant safeguarding procedures. All trainees are expected to demonstrate the Teachers' Standards, including maintaining high standards of personal and professional conduct, throughout the programme.

2. Scope and Expectations

2.1 This procedure is applicable to all current Mid Essex ITT trainees.

2.2 Safeguarding concerns, including those arising from placement settings, may trigger fitness to practise procedures. Examples of issues that may lead to fitness to practise concerns, if the trainee's ability to meet professional standards may be impaired, include:

I. academic misconduct (for example plagiarism, cheating in examinations, forging records, use of AI when not permitted);
II. 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);
III. health and safety breaches;
IV. failure to disclose convictions or other information that the trainee is required to disclose;
V. inaccurate or falsified placement documentation;
VI. unsafe practice, incompetence or requiring too much supervision;
VII. unprofessional behaviour, including:
- lack of respect, aggressive or poor attitude, laziness;

- 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
- dishonesty;
- breaking school confidentiality;

VIII. behaviour away from the trainee's studies, including:

- criminal conviction e.g. violent offence;
- offence of dishonesty;
- disruptive behaviour in the community;
- inappropriate use of social media;

IX. safeguarding concerns;

X. poor mental or physical health or serious physical impairment that interferes with the trainee's ability to practise safely;

XI. failure to seek help or engage with appropriate services in relation to health issues; and

XII. poor communication or language skills.

The examples provided are not exhaustive. Any behaviour or concern that calls into question a trainee's suitability to work with children or uphold professional standards may be considered under this policy.

2.3 This procedure is not for processing appeals or complaints.

3. Fitness to Train

3.1 Fitness to practise concerns are distinct from the fitness to train process.

3.2 Fitness to train processes apply to all trainees and a trainee's health and wellbeing.

3.3 If a trainee's health or wellbeing causes the provider concern about that trainee's ability to complete the training course, Mid Essex ITT may take action under its fitness to train procedures. This may arise where, for example, Mid Essex ITT has concerns that the trainee poses a risk to their own health or safety or that of other people or the trainee's behaviour is affecting the learning experience of other trainees.

3.4 Fitness to train procedures are different to fitness to practise procedures, but concerns about whether a trainee is fit to continue with their training course in the short term may lead to concerns about their fitness to practise in the long term.

4. Mid Essex ITT and Fitness to Practise

4.1 Mid Essex ITT ensures that all trainees have undergone appropriate safeguarding and suitability checks prior to placement, including Enhanced DBS clearance and other statutory checks, with confirmation provided to placement schools.

Mid Essex ITT is committed to recruiting candidates who show they have potential to train to teach and are fit to train through:

I. Detailed assessment of candidate application forms
II. Robust interview process
III. Occupational Health assessment prior to joining the course

IV. Including a trainee teacher person specification and job description as part of the trainee contract, signed before starting the course

5. Timing

5.1 Concerns about a trainee's fitness to practise may arise at any time throughout the teacher training course

5.2 Fitness to practise processes at Mid Essex ITT, including any appeals, will be completed as soon as possible, and where practicable, within 90 calendar days.

5.3 If a trainee has been through related disciplinary proceedings, the fitness to practise process should be carried out as quickly as possible, and within 45 days of the disciplinary decision.

5.4 It may be reasonable for the process to take longer than 90 days where, for example, the case is complex. In those cases, Mid Essex ITT should keep the trainee and any witnesses informed about the progress of the investigation, and when it is likely to conclude.

6. Support and Representation

6.1 Trainees are permitted to have someone to accompany or represent them at meetings and hearings. This can be a family member or friend, or a colleague.

6.2 Mid Essex ITT recognises that fitness to practise processes can be stressful and will ensure that appropriate wellbeing support is signposted throughout.

6.3 Trainees can also seek support and advice from their union.

6.4 Trainees will be informed about where they can seek support, for example through Education Support (https://www.educationsupport.org.uk/)

6.5 Trainees will not normally need to seek legal advice, although they may wish to in serious cases.

6.6 Whether or not the trainee has a representative, the trainee will normally be expected to answer any questions about what has given rise to the fitness to practise concerns.

7. Reasonable adjustments to the process

7.1 Mid Essex ITT will consider in each case whether to make reasonable adjustments to procedures to take account of the individual needs of the trainee.

7.2 If it decided that reasonable adjustments will be made, a record of these adjustments will be kept on file.

8. Relationship with other procedures

8.1 Fitness to practise concerns can arise from disciplinary or misconduct issues, or from health-related or disability issues, and different procedures may apply in each case.

8.2 In the case that a fitness to practise concern is related to a trainee's mental or physical health, or to a disability, Mid Essex ITT is aware of its duties under the Equality Act 2010 to make reasonable adjustments.

8.3 Mid Essex ITT will explain to the trainee how the different processes will be followed in their case and in what order.

8.4 Fitness to practise is not disciplinary in nature. A disciplinary matter might lead to fitness to practise proceedings if the behaviour that led to disciplinary action against the trainee calls into question the trainee's fitness to practise.

8.5 If a separate disciplinary process is conducted before fitness to practise proceedings, the trainee should be given the opportunity to appeal the disciplinary outcome. If the trainee is disputing the facts of the case, Mid Essex ITT should not usually start fitness to practise proceedings until the internal disciplinary procedure is concluded. It may be necessary to take immediate action to protect the trainee or others.

8.6 If a trainee submits a complaint during fitness to practise proceedings, it may be appropriate to pause the fitness to practise process while the complaint is being investigated.

8.7 Mid Essex ITT will follow the OIA's guidance on issuing Completion of Procedures Letters when more than one procedure is being followed.

9. Behaviour that amounts to a criminal offence

9.1 If the police or courts are involved, Mid Essex ITT will normally wait until the outcome of the investigation or proceedings before conduction an internal investigation.

9.2 Mid Essex ITT may also need to take some temporary action against the trainee, in order to protect other trainees, staff members and children. For example, a trainee may be suspended, or temporarily withdrawn from their school placement and training.

9.3 Where a trainee is acquitted of a criminal offence, or where the criminal investigation has been dropped, Mid Essex ITT may still take action under its disciplinary and/or fitness to practise process.

9.4 If the trainee is convicted of a criminal offence, the role of the fitness to practise panel is to determine whether what the trainee has done impairs their fitness to practise.

9.5 Where relevant, Mid Essex ITT will consider its duty to refer cases to the Disclosure and Barring Service (DBS) or other regulatory bodies in line with statutory guidance.

10. School Placements

10.1 Concerns about a trainee's fitness to practise often first arise from their school placement.

10.2 Where a school placement is suspended or terminated because of concerns about the trainee's fitness to practise the provider should carry out its own investigation into events which led to the termination.

10.3 Mid Essex ITT retains overall responsibility for decisions relating to fitness to practise, while taking full account of the professional judgement of placement schools.

10.4 It is reasonable for Mid Essex ITT to attach significant weight to the professional opinion of staff at the school placement, but it will also listen to the trainee's account of what happened and investigate any factual disputes or allegations that the trainee has not been treated fairly.

10.5 If Mid Essex ITT decides that the trainee should be allowed to continue with the course, it may not be possible for the trainee to return to the same school placement because the relationship has broken down. In this circumstance, Mid Essex ITT will make every effort to find another school placement for the trainee. It is reasonable for Mid Essex ITT to expect trainees to positively engage in this process.

10.6 If it proves to be impossible to find an alternative school placement, Mid Essex ITT will discuss with the trainee whether they might be able to transfer to another course.

11. The Fitness to Practise Process

i. Preliminary stage / cause for concern
ii. a Formal Stage
iii. a Review Stage
iv. Independent External Review (OIA)

12. Preliminary stage / cause for concern

12.1 As good practice, Mid Essex ITT will tell a trainee that concerns have been raised about their practice or behaviour, even if Mid Essex ITT decides to take no formal action.

12.2 Mid Essex ITT has a Cause for Concern procedure which may be used to assess whether the trainee's fitness to practise may be in question, or whether the concern is about less serious competency issues.

12.3 Mid Essex ITT may sometimes bypass the Cause for Concern procedures if the issue leading to the fitness to practise concern is sufficiently serious. It may also be appropriate to move to the more formal stages of the procedure if the trainee disputes the events or behaviour giving rise to the Cause for Concern.

13. The Formal Stage

13.2 Where a trainee's fitness to practise is being considered because of previous findings under a disciplinary procedure, or as a result of a criminal conviction, a formal investigation of the facts is generally not necessary or required.

13.2 Mid Essex ITT will conduct an investigation where the facts of the case have not yet been established, or where further information is needed about the effects of the matter leading to concern about the trainee's fitness for practise. In those cases, the investigation will be carried out by a member of staff who has had no previous involvement in the case.

13.3 The member of staff investigating the case will meet with the trainee as soon as possible. The trainee should be given notice of the meeting and provided with enough information to allow

them to respond to the concern(s), and a copy of the relevant procedure at that time. The trainee should also be told how to access advice and support, and who can accompany them to the meeting.

13.4 The member of staff investigating the case may talk to staff at Mid Essex ITT, staff at the school placement, and/or other trainees. They will also consider documents and other evidence, including medical evidence, the trainee provides in support of their case. The investigator should also consider any wellbeing issues.

13.5 The staff member will produce a report based on their investigations which outlines the process followed, the information gathered and their conclusions. The trainee or their representative should receive copies of the information obtained during the investigation, a copy of the investigation report and information about the next steps in the process. Where necessary, Mid Essex ITT should anonymise personal information obtained during the investigation before sending it to the trainee or their representative. The trainee should also be told who they can contact with any queries about the progress of the case.

13.6 Where the investigator believes that the trainee's fitness to practise may be impaired, the matter should be referred to a fitness to practise panel hearing. The investigator may present the case to the panel but should not be involved in the panel's decision making.

14. Fitness to practise panel hearings

14.1 The case will be reviewed by a panel, the Appeals Committee – see appendix.

14.2 Mid Essex ITT will provide the trainee in advance with information about who will be on the panel and who will attend and what their role will be. Trainees must also be given a copy of the information to be considered before the hearing

14.3 The role of the panel will differ depending on whether the facts of the case have already been established (for example in criminal proceedings or disciplinary proceedings). Where the fitness to practise concerns relate to something that has not been proven, the panel must first establish the facts and allow the trainee an opportunity to put forward their case. Mid Essex ITT will, during this stage of the process, follow the Trainee Disciplinary Policy and Procedure.

14.4 Once any disputed facts have been decided, either through a separate disciplinary procedure or criminal proceedings, or by the fitness to practise panel, the role of the panel will be to consider whether the established facts lead to a genuine fitness to practise concern and, if so, what action should be taken.

14.5 A written record will be kept of any meeting or hearing, setting out who attended, a brief outline of the proceedings and the reasons for the decisions taken, including the outcome for the trainee and/ or any conditions applied.

15. Outcomes and conditions imposed by fitness to practise panels

15.1 A finding that a trainee is not fit to practise is different from a finding of misconduct. A finding of misconduct under a disciplinary process may attract a range of penalties whereas a finding that a trainee is not fit to practise may result in the trainee being removed from their course, with little chance that they will be able to train elsewhere. Mid Essex ITT may sometimes suspend trainees

for a period, or put in place a series of supportive improvement measures to give trainees an opportunity to put right the issues identified and demonstrate fitness to practise.

15.2 Before reaching a decision about what action it should take, the panel will consider each option, starting with the least serious. The intention is not to punish the trainee, but to act proportionately where there is a need to protect the public or preserve public confidence in the profession. Mid Essex ITT has a responsibility to explain what they have decided to do, why remedial action is not considered to be possible and how the decision relates to the relevant professional requirements.

15.3 The panel will consider mitigating and aggravating factors, such as the level of insight the trainee has shown, evidence of good practice, personal circumstances and previous disciplinary concerns or patterns of behaviour. The trainee should be given the opportunity to put forward any mitigating factors before the panel decides what action it should take.

15.4 If Mid Essex ITT concludes that the trainee is currently unfit to practise, but that they may become fit to practise in the future, it will explain to the trainee what steps they may be able to take to resume their studies.

15.5 If Mid Essex ITT concludes that the trainee is unfit to practise and should be terminated from the programme, it will consider whether the trainee can be given an exit award (e.g. a PGCE without QTS), or can be transferred to a different programme.

15.6 Mid Essex ITT may have to report to the professional body or regulator that the trainee has been withdrawn from their course because they are not fit to practise, and will explain this to the trainee.

15.7 Mid Essex ITT will also explain to the trainee whether the outcome will also need to be disclosed by the trainee when applying for other courses.

16. Concluding the formal stage

16.1 Mid Essex ITT will write to the trainee setting out the outcome of the formal stage, giving a clear explanation of, and setting out the reasons for its decision and any conditions in straightforward language. This will help the trainee decide whether to appeal. The letter will give information about: the trainee's right to appeal; the grounds on which they can do so; the time limit for submitting an appeal; the appropriate procedure; and where and how to access support.

16.2 If the trainee does not appeal within the time limit for doing so, Mid Essex ITT will close the matter and tell the trainee in writing, issuing a Completion of Procedures Letter.

17 The Appeal Stage

17.1 The trainee is permitted to appeal against a fitness to practise decision, including the action that Mid Essex ITT has decided to take.

17.2 Mid Essex ITT requires a trainee (or their representative) to submit an appeal in writing, by email or by letter.

17.3 The grounds on which a trainee may appeal include:

I. that the procedures were not followed properly;
II. that the decision maker(s) reached an unreasonable decision;
III. that the trainee has new material evidence that they were unable, for valid reasons, to provide earlier in the process;
IV. that there was bias or reasonable perception of bias during the procedure; or
V. that the action that Mid Essex ITT has decided to take is disproportionate or not permitted under the procedures.

17.4 Mid Essex ITT may decide to reject an appeal without assembling an appeal panel if the trainee's appeal submission does not fall within one of the grounds set out in its procedures, or if it is submitted out of time without a good reason. The person making a decision not to assemble an appeal panel should not have had any previous involvement in deciding the trainee's fitness to practise (or, if relevant, in any related disciplinary proceedings). It is important that the decision maker understands the parameters of their role, and maintains the distinction between deciding whether the trainee may have grounds for an appeal, and establishing whether the appeal the trainee is making should be upheld. If the appeal is rejected without being put to an appeal panel, Mid Essex ITT should issue a Completion of Procedures Letter at this stage, explaining its decision.

17.5 It is important to be clear about the remit of an appeal to ensure that trainees understand its purpose and scope. An appeal may be considered at a hearing or only on the basis of written submissions. The appeal stage may involve a review of the formal stage or a complete rehearing of the case. The procedures should say whether the appeal panel can overturn the outcome of the formal stage and substitute its own decision, or whether the matter needs to be referred back to the formal stage for reconsideration. The appeal panel should consist of members who have not been involved at a previous stage. Where the appeal panel is rehearing the case or may substitute its own decision, it should include at least one member of the relevant profession.

17.6 Trainees should be given information about how to access support and advice during the appeal process.

18. Concluding the appeal stage

18.1 If the appeal is not upheld, or is not permitted to proceed under the grounds of appeal, the decision should be communicated to the trainee in writing by issuing a Completion of Procedures letter as soon as possible and within 28 days.

18.2 The decision should also advise the trainee about their right to submit a complaint to the OIA (see External Independent Review) within 12 months.

18.3 If the appeal is upheld, Mid Essex ITT will provide the trainee with a Completion of Procedures letter and explain what action it will take.

19. Independent External Review

19.1 If Mid Essex ITT dismisses the trainee's appeal for a review, it will notify the trainee of:

I. Their right to submit a complaint to the Office of the Independent Adjudicator (OIA) for review;
II. The time limit for doing so (12 months)

III. Where and how to access advice and support: https://www.oiahe.org.uk/

20. Fitness to Practise and Confidentiality

20.1 Fitness to Practise procedures should be handled with an appropriate level of confidentiality, with information released only to those who need it for the purposes of investigating or responding to the case. No third party should be told any more about the investigation than is strictly necessary in order to obtain the information required from them.

21. Fitness to Practise, Behaviour and Representatives

21.1 Trainees can appoint a representative to support them during the process.

21.2 Mid Essex ITT will ensure that all parties are treated with dignity and respect throughout the process.

21.3 There is an expectation that trainees, their representatives and staff members should act reasonably and fairly towards each other and treat the processes themselves with respect.

21.4 Mid Essex ITT has a responsibility to protect its staff against unacceptable behaviour.

21.5 If a trainee's or representative's behaviour is deemed unacceptable, their access to staff or procedures might be restricted. Mid Essex ITT will inform the trainee if a decision has been made to restrict access, and the procedures for reviewing such a decision.