

National Modern Languages SCITT

Fitness to Practise Policy

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Version number:	2.2
Implementation date:	31 August 2017
Next review:	March 2022
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Target audience:	Staff / Trainees / O.I.A.
Related documents:	Chorus Trust Privacy Notices, Trust Retention Schedule, Chorus Education Trust Data Protection Policy, NML SCITT Disciplinary Policy, NML SCITT Cause for Concern Policy, NML SCITT Fitness to Study Policy, NML SCITT Complaints Procedure, NML SCITT Assessment Policy, NML SCITT Suitability Declaration Form, NML SCITT DBS Policy



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1. Introduction

The National Modern Languages (NML) SCITT has a responsibility to ensure that students following a programme of study leading to a professional qualification which is registrable with the statutory regulatory body are suitable to enter the profession having the skills, knowledge, character and health to practise their profession safely and effectively.

The DfE sets out a clear baseline of expectations for the professional practice and conduct of teachers from the point of qualifications in The Teachers' Standards, which were introduced on 1 September 2012. The Teacher Standards are used to assess all trainees working towards Qualified Teacher Status (QTS) and all those completing the statutory induction period, in line with the Early Career Framework. They should also be used to assess the performance of all teachers subject to the *Education (School Teachers Appraisal) England Regulations 2012*. The Teachers' Standards should also be used in conjunction with *the DfE Teacher Misconduct regulations* to determine ultimately whether a student is fit to practise upon qualification as well as when studying

Reference may also be made to *DfE Circular 4/99: Physical and Mental Fitness to Teach of Teachers and of Entrants to Initial Teacher Training*.

The NML SCITT has a duty:

- a) to ensure that trainees are fit to practise in the teaching profession, or will be when they complete the course;
- b) to present or future pupils, colleagues and members of the wider school community;
- c) to safeguard public confidence in the profession;
- d) to comply with the requirements of professional/regulatory bodies; and
- e) to ensure that trainees are not awarded QTS if they are not fit to teach.

This guidance explains the procedure that the NML SCITT will follow in investigating concerns about a trainee's fitness to practise. It should be noted that this procedure applies to all trainee teachers registered with the NML SCITT but does not replace or supersede the policies of any Higher Education Institution who may be providing an academic qualification on behalf of the NML SCITT. It is therefore possible that a trainee teacher can be subject to the fitness to practise procedures of the NML SCITT; and a University, as the PGCE provider. The policy and process of each institution will remain the responsibility of each organisation and should be considered as standalone policies.

If the student has failed to comply with the expectations within the '*Fitness to Practise*' requirements of the NML SCITT and the NML SCITT is no longer prepared to accept the trainee, the NML SCITT will confirm that the trainee should no longer attend the placement. In such circumstances, the PGCE Provider's '*Student Fitness to Practise Regulations*' procedures will be followed.

2. Preamble

There may be occasions when an individual is judged not to be suited to a career as a teacher. Concerns about trainees may take many forms and may be raised by staff, other trainees or by persons external to the NML SCITT.

2.1 What is a concern?

The NML SCITT will ensure that:

- a) trainees understand any allegations and/or concerns, and how they relate to the relevant professional standards and the trainee's fitness to practise;
- b) reasons are given for decisions reached about a student's health or behaviour, and what to do about it;
- c) there is a route of appeal; and
- d) the investigation, any hearing and any appeal is carried out as quickly as possible, consistent with fairness.

2.2 Confidentiality and anonymity

The NML SCITT will follow the ***Chorus Trust Privacy Policy***.

Chorus Education Trust Data Protection Policy and Chorus Education Trust Privacy Notices

A person makes an anonymous complaint about a trainee, under ***whistleblowing procedures***, the NML SCITT will take extra care to ensure that it investigates the concerns carefully. Those investigating the concerns will normally need to know the identity of the person making the complaint so that they can rule out the possibility that the report is made maliciously. Witnesses who are giving their professional opinion are not expected to be anonymous. If the witness does not agree to the student knowing their identity it may not be appropriate to rely on their evidence. Where evidence comes from service users during a practice placement, the placement provider will need to protect the confidentiality of service users, particularly where those service users are children or vulnerable adults. In these cases, the provider should obtain as much information and evidence from the placement provider as possible. This may include a summary of allegations made by service users, or anonymised witness statements. In every case the student needs to have enough information about the concerns raised to be able to respond to them.

2.3 Support and representation

The NML SCITT will direct a trainee who is going through ***fitness to practise procedures*** to the support services available, for example the trainee's union, or relevant professional trade unions, which can provide independent support and advice.

The trainee will be advised to bring a member of their professional association or academic representation.

In extreme cases regulators permit legal representation when dealing with fitness to practise issues.

Concerns may arise for any trainee from:

- a) failing to meet the high standards of professional and personal conduct required of a teacher;
- b) a lack of progress in the development of their teaching skills;
- c) concerns that the trainee's teaching is not on track to meet the Teachers' Standards by the end of training. These concerns may be raised by a placement school, School Based Subject Mentor, Senior Mentor Coordinator (SMC), Hub Lead Teacher, Course Leader, Quality Assurance tutor or other staff associated with the NML SCITT;

- d) any safeguarding issues raised;
- e) some other substantial reason.

Examples of issues that may lead to fitness to practise concerns, if the trainee's ability to meet professional standards may be impaired, include:

- a) academic misconduct (for example plagiarism, cheating in examinations, forging records);
- b) 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);
- c) health and safety breaches;
- d) failure to disclose convictions or other information that the trainee is required to disclose;
- e) forged certificates of qualifications obtained;
- f) inaccurate or falsified placement documentation;
- g) unsafe practice, incompetence or requiring too much supervision;
- h) 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 trainee confidentiality;
- i) 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;
- j) safeguarding concerns;
- k) poor mental or physical health or serious physical impairment that interferes with the trainee's ability to practise safely;
- l) failure to seek help or engage with appropriate services in relation to health issues; and
- m) poor communication or language skills.

It is reasonable for the provider to attach significant weight to the professional opinion of staff at the placement. But it should also listen to the trainee's account of what happened on the placement and investigate any factual disputes or allegations that the trainee has not been treated fairly.

3. Concerns Relating to Professional and Personal Misconduct (Teachers' Standards Part Two)

3.1 Meeting the Teachers' Standards

Trainees must, at all points within the training, demonstrate consistently high standards of personal and professional conduct, as set out in the preamble to the Teachers' Standards and Part 2 of the Teachers' Standards. All members of the NML SCITT and staff in Hub and partner schools have a duty to inform the SCITT Director if they believe a trainee's attitude or personal or professional conduct does not meet these high standards. The NML SCITT Director, acting with the agreement of a member of The NML SCITT Strategic Board, has the right to suspend a trainee from training, with immediate effect, if his/her attitude or professional or personal conduct falls seriously short of any of the requirements in any part of the Teachers' Standards. The NML SCITT Director may also refer to the **NML SCITT's Disciplinary Procedures** in this case.

If the NML SCITT Director has any reason to believe a trainee's attitude, behaviour or conduct is not consistently meeting the requirements set out in the Teachers' Standards the trainee will be informed of these concerns. If the concern is serious, this will lead to a formal meeting within the **NML SCITT Disciplinary Policy**.

3.2 Serious Misconduct

Most serious concerns/misdemeanours will be dealt with using the **NML SCITT Disciplinary Policy**. Implementation of the **NML SCITT Disciplinary Policy** is a serious matter and any trainee brought within it is advised to bring with them a trainee union or trade union representative. In the case of serious misconduct in the placement school, it is the Headteacher's right to ask the trainee to leave the premises.

Where a trainee may be a danger to themselves or others, providers have a responsibility to do what they can to protect their trainees, staff, service users at practice placements, and members of the public. In some cases, the provider may need to take immediate action, particularly where a trainee is undertaking a practice placement. These may include, but are not limited to:

- a) cases involving a threat of serious harm to the trainee and/or others;
- b) cases involving gross misconduct/serious incidences of unprofessional behaviour;
- c) cases where a trainee has demonstrated unsafe practice;
- d) cases where a trainee's mental health is at risk; or
- e) cases raising serious safeguarding concerns.

3.3 Written Record

A non-verbatim written record of all meetings will be kept outlining:

- a) the areas of concern and the implications for the trainee in meeting the Teachers' Standards;
- b) targets set for the trainee to meet the standards, with a clear timescale for improvement using the **NML SCITT Cause for Concern Policy**;
- c) any decisions made in the meeting regarding further disciplinary actions, including whether the trainee is considered 'unfit to proceed' with the training.

3.4 Unfit to proceed

If a trainee is considered 'unfit to proceed', the following procedure should be followed.

- a) The trainee is informed of the decision at a hearing that includes representatives of the NML SCITT Strategic Board.
- b) This decision will be confirmed in writing within 3 working days, including reasons, and the trainee's right to appeal.
- c) The trainee has 10 working days from the receipt of the letter to make representations to the NML SCITT Appeals Committee.
- d) If the trainee does appeal, the NML SCITT Appeals Committee should review both sides of the case and decide whether to uphold or override the decision.
- e) If the decision is overridden, there may be conditions attached.
- f) The trainee must be informed in writing of the decision and reasons within 3 working days of the review.
- g) In cases where it is deemed the trainee is 'unfit to proceed' this matter must be discussed at the next meeting of the NML SCITT Strategic Board.

4. Concern relating to progress against the Teachers' Standards Part 1

All staff involved in the assessment of trainees will be reminded of the paramount importance of early detection of underperformance. If it becomes apparent at any point throughout the programme that a trainee is not making satisfactory progress against Part 1 of the Teachers' Standards, then the procedures, as detailed below, must be followed by **all** staff supporting the trainee. It is important that either the Hub Lead Teacher, the Course Leader or the NML SCITT Director is contacted immediately by the SMC or School Based Subject Mentor where there is a concern. This will ensure appropriate supportive action for the trainee, school and pupils is put in place as soon as possible.

Trainees are assessed on a weekly basis on all aspects of their work in school, against the criteria provided by the NML SCITT.

Early identification of any trainee causing concern or failing to meet the Teachers' Standards is essential. School Based Subject Mentors will normally be the first to raise this concern through the **SCITT's Cause for Concern process**. Any trainee for whom practical work in school is giving serious cause for concern or for

whom other aspects of the work in school, including professional conduct, generate concern about their suitability for teaching should be referred to the Hub Lead Teacher or Course Leader as soon as possible.

This will be communicated immediately to the NML SCITT Director who will discuss the situation with relevant staff. An official Cause for Concern will be initiated via the ***NML SCITT's Cause for Concern Policy***.

The trainee will be given an opportunity at any point to set out his/her perception of the issues of concern. S/he may also contact the Hub Lead Teacher or the Course Leader at any time during the training to seek guidance. Trainees may also request of the NML SCITT Course Leader or NML SCITT Director that they be given the opportunity to speak to another representative such as Internal Moderator, External examiner or a member of the Assessment Board regarding concerns that may have arisen.

Throughout the process in this policy, there will be weekly communication between the school, the NML SCITT and the trainee and all communications will be documented.

Should the trainee's performance improve, the normal procedures for assessment, including weekly reviews and the review points, will be used for further review and development of the trainee's skills against the NML SCITT criteria and the Teachers' Standards.

5. Other Substantial Reason

Where none of the above are applicable but the ***NML SCITT Cause for Concern Policy*** has 'Some Other Substantial Reason' for questioning the trainee's suitability to remain on the course e.g. medical fitness reasons, there will be appropriate interventions in line with ***NML SCITT Fitness to Study Policy***.

5.1 Health and disability issues

Sometimes fitness to practise concerns are related to the trainee's mental or physical health, or to a disability.

Under the ***Equality Act 2010***, the NML SCITT will make reasonable adjustments for disabled trainees in relation to a provision, criterion or practice other than a competence standard. A competence standard is defined in the ***Equality Act*** as "an academic, medical or other standard" applied for the purpose of determining placements. The NML SCITT will agree with the trainee before the placement starts what information can be shared with the placement to make sure that support is in place.

If the matter leading to the fitness to practise concern may be related to a trainee's disability, the NML SCITT will consider whether the trainee requires additional support, and whether it should make reasonable adjustments to the way in which it is assessing the trainee. This might include agreeing and arranging additional support for the trainee in their practical placement setting. The NML SCITT will consider each case individually.

The NML SCITT will consider what evidence, if any, it requires from the trainee so that it can properly assess their fitness to practise and support them in their studies. This might include medical evidence and/or occupational health referral. The NML SCITT will support trainees in obtaining this evidence, for example, by directing them to the appropriate expert and paying for the report where this is proportionate.

When trainees think that they might need additional support it is important for them to tell the NML SCITT. Although trainees don't have to tell the NML SCITT about a disability, the NML SCITT will make sure that there is a supportive environment that encourages them to; and that trainees understand the need for insight into their condition. The NML SCITT will explain to trainees that they need to tell the NML SCITT if there is

anything that might affect their ability to study or fulfil competence and for which they might need additional support, even if they don't want to give details of what it is.

6. Procedures, appeals and record keeping

6.1 Procedures

The formal stage of the ***Fitness to Practise process*** will be conducted by a panel constituted of:

- SCITT Director (Chair) or nominee;
- Senior Leader from a partner school;
- The NML SCITT Internal Moderator;
- HR representative from Chorus Education Trust;
- NML SCITT Administrator (Minute taker).

The panel will first establish the facts and allow the trainee an opportunity to put forward their defence. Once the facts leading to the fitness to practise concerns have been proven, either through a separate disciplinary procedure or a criminal conviction, or during the fitness to practise hearing, the panel will consider whether the established facts lead to a genuine fitness to practise concern, and if so, what action should be taken.

The NML SCITT must prove that the trainee has done what they are accused of doing. The NML SCITT will need to produce evidence to prove this and explain how this impairs the trainee's fitness to practise.

Once the NML SCITT has produced evidence to prove an allegation, if the trainee disputes the allegation they will need to provide evidence to rebut it. Trainees will also need to prove any mitigating factors that they wish to rely on.

The standard of proof required is similar to that in civil cases which is normally the 'the balance of probabilities' that is, it is more likely than not that something has happened. Decisions must still be supported by evidence. This standard is higher than simply believing something has likely to have happened and is lower than standard of proof required in legal proceedings.

Fitness to practise proceedings can be particularly stressful for trainees, and the outcomes can have serious consequences for their studies and future careers. It is therefore particularly important that the investigations, hearings and appeals are conducted as quickly as possible, consistent with fairness.

The NML SCITT will:

- Inform trainees as soon as possible that fitness to practise concerns have been raised;
- Complete the entire process, including any appeal, within 90 days (it may be reasonable that this will take longer where the case is complex) of the trainee being told of the concerns; and
- Ensure that, where the trainee has been through related disciplinary proceedings, ***the fitness to practise process*** is carried out as quickly as possible, and within 45 days of the disciplinary decision. In such cases, the ***fitness to practise process*** will not need to prove facts, allowing for proceedings to be concluded.

6.2 Appeals and Complaints

The trainee has the right to appeal against a fitness to practise decision, including the action the NML SCITT has decided to take. The trainee must submit an appeal in writing.

Grounds might include:

- That the procedures were not followed properly;
- That the decision maker(s) reached an unreasonable decision;
- That trainee has new material evidence that they were unable, for valid reasons, to provide before the fitness to practice decision was taken by the NML SCITT;
- That there was a bias or reasonable perception of bias during the procedure; or
- That the action the NML SCITT has decided to take is disproportionate, or not permitted under the procedures.

The NML SCITT may decide to reject an appeal without assembling the Appeals Committee if the trainee's appeal submission does not fall within one of the grounds set out in the **Complaints Procedure**, or if it submitted out of time without a good reason. This decision will be taken by the Chief Executive Officer of Chorus Education Trust who will not have been involved in the **Fitness to Practise process** up to this point.

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 Appeals Committee can overturn the outcome of the formal stage and substitute its own decision or refer the matter back to the formal stage for reconsideration. The constitution of the Appeals Committee will be:

- a) Executive Headteacher of Chorus Trust Education (Chair) or nominee;
- b) Senior Leader from a partner school (was not involved in previous stage);
- c) NML SCITT Hub Leader;
- d) HR representative from a partner school;
- e) NML SCITT Administrator (Minute taker).

The trainee will be given information about how to access support and advice during the appeal process.

If the appeal is not upheld, or does not fall under the grounds of appeal as stipulated in the **Appeals Policy** the trainee will receive a written notification within 28 days. This will include an explanation of the decision reached and the reasons for it. The notification will advise the trainee of their right to submit a complaint to the OIA within 12 months from the date of the notification. The trainee will also be advised of any conditions set by the NML SCITT that the trainee must meet before they can continue with their studies.

If an appeal is upheld, the NML SCITT will give the trainee a written outcome that explains what action will be taken. If the outcome involves referring the case back to the formal stage for reconsideration, the NML SCITT will ensure that reconsiderations are concluded as soon as possible and, where practical, within the 90 day time frame.

6.3 Record Keeping

The NML SCITT will ensure that proportionate records of fitness to practise proceedings and outcomes are kept. Records will be kept even when the proceedings don't result in any action being taken against the trainee. This is because behaviour or concerns that are not considered serious enough to need any action may be relevant in later proceedings if the trainee behaves in a similar way again or other concerns are raised. The NML SCITT will keep a record even if the trainee is completely exonerated in case a dispute later arises about the proceedings or outcome. Please refer to the Trust Retention Schedule, which sets out how long records will be kept, and under what circumstances they might be disclosed other bodies

[Chorus Education Trust Data Protection Policy](#)

The NML SCITT will explain to the trainee what record has been kept and for what purpose.

Publishing policy

This policy is available through the SCITT website and our NML SCITT Intranet. A copy can also be request via our NML SCITT office.

Trainees who have exhausted the NML SCITT's internal procedures regarding fitness to practice may bring their complaint to the Office of the Independent Adjudicator for Higher Education (OIAHE) within one calendar year of receiving a Completion of Procedures letter. The OIAHE's website (at www.oiahe.org.uk) contains full information, and the OIAHE can be contacted at: OIA, Second Floor, Abbey Gate, 57 – 75 Kings Road, Reading, RG1 3AB, tel: 0118 959 9813 email: enquiries@oiahe.org.uk. Anyone wishing to pursue a complaint through the OIAHE must complete a special Scheme Application Form, downloadable copies of which are available from the website.