

ROYAL COLLEGE OF ART

Policy on 'Fit and Proper' persons

Policy Owner: College Secretary

Approval route:

ARC (recommendation to Council 23.6.21)

Council (formal approval 14.7.21)

Background

The College is committed to ensuring and demonstrating accountability through trust and through a commitment to fostering a culture of openness and transparency. The College is committed to ensuring that OfS Public Interest Governance Principles are met. The College has adopted the CUC Higher Education Code of Governance which places an emphasis on the values, culture and behaviours of its governing body members and senior officers.

Requirements

All OfS registered providers must adhere to OfS Public Interest Governance Principles as part of ongoing registration requirements. Part of this requirement is to ensure that all members of Council, independent, staff and student, as well as senior officers exercising control or significant influence are 'fit and proper persons'.

Definition of 'fit and proper'

A 'fit and proper' person as defined by the OfS:

- Is of good character.
- Has the qualifications, competence, skills and experience that are necessary for their role.
- Is able by reason of their health, after reasonable adjustments are made, to properly perform the tasks of the office or position for which they are appointed.
- Has not been responsible for, been privy to, contributed to, or facilitated any serious misconduct or mismanagement (whether

unlawful or not) in their employment or in the conduct of any entity with which they are or have been associated.

The following are indicators that a person may not be a fit and proper person:

- Disqualification from acting as a company director, or from acting as a charity trustee, as set out in the Company Directors Disqualification Act 1986 or the Charities Act 2011.
- Conviction of a criminal offence anywhere in the world or subject of any adverse finding in civil proceedings, where relevant, including, but not limited to bankruptcy or equivalent proceedings (in the last three years).
- Subject of any adverse findings in any disciplinary proceedings by any regulatory authorities or professional bodies.
- Involvement in any abuse of the tax systems.
- Involvement with any entity that has been refused registration to carry out a trade or has had that registration terminated.
- Involvement in a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection.
- Dismissal from a position of trust or similar.
- Involvement with a higher education provider that has had its registration refused or revoked by the OfS or has had similar action taken against it by another regulator (this includes, but is not limited to, serving on a board/governing body, having voting rights, being a significant shareholder/owner, serving in a senior position, etc.)

Process

Due diligence on appointment independent Council members

All Council independent Council appointments are made by the Council on the recommendation of the Nominations Committee. In all cases independent members are appointed following consultation, extensive

search, informal pre-meetings with senior officers (including the Chair of Council and Chair of relevant Council subcommittee) and interview. For the appointment of independent Council members, the College Secretary is responsible for carrying out due diligence on OfS 'Fit and Proper Person' requirements. The College Secretary will assess and document whether the independent Council appointee:

- Is of good character.
- Has the qualifications, competence, skills and experience that are necessary for their role.
- Is able by reason of their health, after reasonable adjustments are made, to properly perform the tasks of the office or position for which they are appointed.
- Has completed the fit and proper self-declaration and any negative responses have been reviewed by the College Secretary.

Due diligence will also include documenting:

- The result of the company director search (listing all companies, including ones no longer trading).
- The result of a search of the Charity Commission's website of other trusteeships if the individual has identified a position as a charity trustee.
- Assessing any negative indicators following an internet search on the individual.

Due diligence as outlined in above will be carried out for all independent Council members as part of the appointment process. The preferred candidate will be informed that their appointment is subject to reference and due diligence checks. The candidate will be informed of the nature of the checks that will be carried out. In the event that no concerns on fit and proper due diligence are raised, this will be reported to the Nominations Committee as part of their recommendation to Council for the appointment of the candidate.

In the event that due diligence checks raise concerns about the candidate's status as a fit and proper person, further information will be requested and reviewed by the College Secretary and a report made to

the Nominations Committee as part of their final recommendation of an appointment to Council.

Due diligence on the appointment of Students' Union appointees to Council

The College Secretary will seek reassurance from the SU that their nominees have undergone the RCA SU charitable body due diligence tests. Nominees will then be required to complete a self-declaration in the usual way.

Due diligence on the appointment of senior officers of the College (SMT members)

For the appointment of senior officers of the College (SMT members), the Director of HR (or nominee) is responsible for carrying out due diligence on OfS 'Fit and Proper Person' requirements.

Prior to an offer of a position, the Director of HR (or nominee) will assess and document whether the individual:

- Is of good character.
- Has the individual got the qualifications, competence, skills and experience that are necessary for their role.
- Is able by reason of their health, after reasonable adjustments are made, to properly perform the tasks of the office or position for which they are appointed.
- Has completed the fit and proper self-declaration and the responses have been reviewed by the College Secretary.

Due diligence will also include documenting:

- The result of the company director search (listing all companies, including ones no longer trading).
- The result of a search of the Charity Commission's website of other trusteeships if the individual has identified a position as a charity trustee.
- Assessing any negative indicators following an internet search on the individual.

Due diligence as outlined above will be carried out for all senior officers (SMT members). This will be carried out at the same time as references are taken, and the candidate will be informed that their appointment is subject to references and due diligence checks. Self-declaration forms are shared with new members of the SMT by HR. Once returned these will be reviewed by the Director of HR (or nominee).

In the event that due diligence checks raise concerns about the candidate's status as a 'fit and proper' person, the following action will be taken:

- If the candidate is going through the recruitment process, they will be informed that their application will not be progressed, due to adverse findings during the due diligence checks.
- If the candidate has been given a conditional offer of employment, this offer will be withdrawn for reasons of adverse findings during the due diligence checks.

Reference checks

For Council and SMT appointments two references will be taken.

Disclosure and Barring Service (DBS) checks

The College will carry out a DBS check if there is potential for that person to be working with vulnerable adults or children.

Annual review: independent Council members and student Council members

Independent Council members, student Council members are required to complete an annual self-declaration, confirming that they are a 'fit and proper person' as defined by the OfS. The annual self-declaration will be circulated by the secretariat. Independent Council members and student Council members are required to inform the College Secretary immediately of any changes to their circumstances which may have an impact on their fit and proper status.

Annual self-declarations for independent Council members and student Council members will be reviewed by the College Secretary. If Council members have answered 'yes' to any of the questions in the self-declaration, they should provide further details to the College Secretary who will review the information received and document the final decision in the fit and proper confirmation form for that individual.

In the event that:

- the annual self-declaration and any subsequent review by the College Secretary and Nominations Committee indicates that an independent member is no longer a 'fit and proper person'
- it comes to light that an independent Council member has failed to disclose material information on the annual self-declaration and subsequent review by the College Secretary and Nominations Committee indicates that an independent member is no longer a 'fit and proper person'

A recommendation may be made to the Council for removal from office under Ordinance 1.3, removal from office of Council members. (*These Ordinances are due to come into effect later in the year*) and where appropriate, a reportable event made to the OfS.

Annual self-declarations SMT members:

Annual self-declarations for SMT members will be circulated by the secretariat. The College Secretary is responsible for monitoring the returns. If SMT members have answered 'yes' to any of the questions in the self-declaration, their declaration will be referred to the Director of HR (or nominee) who will review the information received and document the final decision on self-declaration confirmation. If that SMT member is the Director of HR, their declaration will be referred to the College Secretary.

In the event that the annual self-declaration and subsequent review indicates that a staff member is no longer a 'fit and proper person', then the relevant disciplinary process will be followed, to investigate the issue and decide on a reasonable course of action.

Periodic full review

A full due diligence review will be carried out for independent Council members upon renewal of a term of membership, every three years.

A full due diligence review will be carried out for SMT members every three years, unless a review has been carried out within the preceding twelve month period.

Resources

The following templates and forms are used to assess 'fit and proper' requirements.

[Due diligence checklist for new appointees](#)

[Due diligence self-declaration form](#)

Data

All information provided is kept confidential and managed in line with the College's Data Protection Policy and as stated in the College's Data Privacy Notices.