

## 1. ACADEMIC AND REGULATORY APPEALS

For students on programmes and awards validated by the University of Plymouth this section of the CAPR has been agreed by the University (as the awarding institution) as meeting its academic and regulatory appeals requirements. The shaded sections below form GSM London regulatory and policy framework as applied to Plymouth University and GSM awards.

Related guidance and codes of practice can be found at the QAA Code of Practice, Assuring and Enhancing Academic Quality, Chapter B9: Academic Appeals and Student Complaints.

### Purpose and scope

- 1.1 This section of the Consolidated Academic Policies and Regulations (CAPR) explains how a student may ask the College to review a decision for errors of process, what sort of errors the College will review, and what the outcome of this review may be.
- 1.2 This policy applies to all current students and to any appeal submitted on or after 1 February 2017 regardless of the date of the event giving rise to the concern.
- 1.3 This policy **does not** apply in the following circumstances:
  - (a) A student has interrupted their studies. If so, the College will normally consider the matter on their return to the programme.
  - (b) A student has been recommended for an award and is due to graduate. If so, the College may continue with the application for appeal only through discussion with the student and if the student accepts in writing that this may delay their graduation, where necessary.

### Definitions

- 1.4 'Academic appeal' means a student's request for a formal review of the quality of the College's process in reaching a decision affecting their academic achievement.
- 1.5 'Regulatory appeal' means a student's request a review of the quality of the College's process in reaching a decision under a policy or regulation affecting their status or studies (for example, a decision under the policy for Student Conduct and Behaviour).
- 1.6 'Decision' means any choice or judgment by a person or body that affects a person or group including reports, recommendations, advice and guidance.
- 1.7 'Academic judgment' means an academic decision that draws on the professional and scholarly knowledge and expertise of members of the College staff and the external examiners.
- 1.8 'Reasonably arguable' means the relevant officer can conclude that in the specific circumstances what is argued is on balance likely to be logically correct.

NOTE: All sections of the CAPR are interpreted according to the rules established in "Part A: General Regulations" including calculation of time limits, representation at hearings, and how the College communicates with students.

## Introduction

### *Overview*

- 1.9 An academic appeal is a quick and efficient way for students to ask the College to check whether it has properly followed the right policy or regulations and whether any deviation or irregularity has affected a decision.
- 1.10 The regulations aim to provide an internal procedure to enable a student to raise a concern about whether the College is properly applying its regulations and decision-making processes which affect a student's academic status, achievement or progression.

### *Principles*

- 1.11 A student may appeal against a ratified or confirmed decision of a Board of Examiners, or College body or officer, on any matter affecting the student's status or studies (e.g., a decision about academic progress).
- 1.12 The College will hear an appeal only when the relevant body has ratified or confirmed a decision on a student's status or studies. There are two (2) exceptions to this:
- (a) A student's failure in a module or placement has not yet been ratified by a Board of Examiners and the failure prevents or may prevent the student progressing in their current programme.
  - (b) A student has expressed a concern, upheld by the Office of Student Complaints, Appeals and Regulation, that the current decision-making process is not giving 'natural justice'.

### 1.13 A student may appeal if:

- (a) there are reasonable grounds, supported by authoritative and objective evidence, to believe there has been an administrative or procedural error that may have affected the decision or recommendation to the student's disadvantage;
- (b) the decision or recommendation in the case was clearly unreasonable or affected by prejudice and/or bias; or
- (c) there exists or existed circumstances affecting the decision which, for good reason, the decision-makers may not have known about when taking the original decision.

**NOTE:** No appeal is possible against the proper exercise of academic judgment.

- 1.14 The appeal decision is the formal confirmation, based on evidence, as to whether a decision or recommendation affecting a student's status or studies was reached:
- (a) in line with correct College policy, regulations or procedures;
- NOTE: An appeal outcome may confirm that a decision or recommendation was 'in line with the policy, regulations or procedures'. This is not the same as saying that the decision followed every step without any error. It means that the decision-makers did not use the regulations or procedures to achieve a purpose for which they were not created. It may also mean that any error in following the policy, regulations or procedure was minor and did not materially affect the decision.
- (b) in the light of all relevant information; and

NOTE: An appeal outcome may confirm that a decision or recommendation was made in the light of relevant information. This is not the same as saying that the decision must take into account information that the student failed to provide without good reason, or that all available information must be given the same weight. It means that the decision-makers took into account all relevant considerations; made suitable attempts to find all the information they had a duty to consider; and did not take into account anything irrelevant.

- (c) with due consideration and reason.

NOTE: An appeal outcome may confirm that a decision was 'reasonable'. This is not the same as saying the Academic Appeals Panel would have made the same decision. It means that the decision-maker(s) applied logical or rational principles in reaching the decision. The Academic Appeals Panel will examine the decision to see whether decision-makers followed logical principles. It does not substitute its own decision for that of the decision-makers.

## Procedures

### Overview

1.15 The Academic Appeals procedure contains two (2) stages:

- (a) Stage 1 – Preliminary consideration including internal resolution within academic departments.
- (b) Stage 2 – Consideration by the Academic Appeals Committee

### *Stage 1 – Preliminary consideration including internal resolution within academic departments*

#### Internal resolution within the academic department

A student may wish to seek an internal resolution themselves and can do so by submitting an informal written request to their Head of Department (or academic nominee) within ten (10) working days of the decision

As part of the internal resolution process, the Department must normally offer a student a meeting at which the case can be further discussed.

Departments must normally decide the outcome of a case submitted for internal resolution within five (5) working days of receiving the case.

The Department will give the student a formal record of the internal resolution's conclusions. Students who remain dissatisfied following an internal resolution meeting may apply to the Academic Appeals Panel

1.16 A student who is concerned about an individual assessment or other academic decision, or who remains dissatisfied after an internal resolution meeting, should submit their claim on the prescribed form to the Office of Complaints, Appeals and Regulations (OSCAR) within ten (10) working days of the decision or results being published.

- 1.17 The application must include:
- (a) a clear statement of the grounds for request (i.e. why the student believes there may have been an error);
  - (b) all relevant evidence or details of events in support of the request;
  - (c) all relevant details (including the formal conclusions) of the Department’s internal resolution, or an explanation of why the student cannot provide such details;
  - (d) a list of anyone (with contact details) who is known to have relevant information; and
  - (e) a case that is reasonably arguable.
- 1.18 The College may consider an application that is lodged out of time if the student proves to its satisfaction that they were mentally or physically incapable of lodging a request within the prescribed time limit.
- 1.19 Within five (5) working days of receiving the appeal, the College must send an acknowledgement. The student must keep it as proof that their application has been lodged.
- 1.20 During the College’s preliminary consideration of the appeal, it may take into account relevant details about the internal resolution of the case, and other relevant documents about the matter. But it will neither request more comments from the student or anyone else nor interview the student or anyone else, unless in exceptional circumstances.
- 1.21 The preliminary consideration will be conducted by a suitably authorised officer from the OSCAR Team plus one senior academic officer.,.
- 1.22 The preliminary consideration must decide on one (1) of the following outcomes:
- (a) All relevant conditions are not met, so the application is rejected.
  - (b) All relevant conditions are not met but the preliminary consideration will be adjourned pending receipt of further information requested
  - (c) All relevant conditions are not met but the case is referred to the relevant programme leader for internal resolution if this is perceived as being beneficial to the student
  - (d) All relevant conditions have been met, so the student’s application and any documents considered will be passed for ‘consideration by representation’;
  - (e) All relevant conditions have been met, so the student’s application and any documents considered will be passed for ‘consideration by hearing’.
- 1.23 Applications that are rejected at this stage must be reported to the next meeting of the Academic Appeals Panel ..
- 1.24 The officers must normally decide the outcome of a preliminary review within five (5) working days of receiving the case.
- Stage 2 – Consideration by the Academic Appeals Panel*
- 1.25 The Academic Appeals Panel will consider if an application should be considered by representation or by hearing.

- (a) Consideration by representation is conducted during the panel's next ordinary meeting. It means the panel will consider one (1) or more individual appeals after reading written representations. The panel deals with most academic appeals this way.
- (b) Consideration by hearing occurs when needed to consider an individual appeal through written submissions and an oral hearing. It is generally reserved for very complex cases where points of regulatory interpretation<sup>1</sup> are also core issues to the appeal. It may not be used to enable the student to further present the factual basis for their appeal.

1.26 **For consideration by representation**, the panel may request extra written information, including written comments, that it considers appropriate; but it may not interview the student, members of staff or witnesses in this process. The normal deadline for response to such requests is five (5) working days.

1.27 **For consideration by hearing**, the student must get at least ten (10) working days' written notice of the hearing date and receive at least the following rights and information, as relevant:

- (a) A statement of the appeal.
- (b) All further documents gathered and to be considered by the panel.
- (c) Membership of the panel.
- (d) A copy of the relevant sections of these regulations.
- (e) The general guidance on conduct of proceedings in hearings.
- (f) The date, time and place of the hearing.
- (g) The right, before the hearing, to submit a further statement or extra relevant supporting evidence (or both) and to call witnesses. No later than five (5) working days before the hearing date, the student must give the Clerk to the panel the names of all their witnesses and state briefly why they are calling them.
- (h) The right to be accompanied by a representative or friend (or both), in line with the regulations on representation.

1.28 The ruling of the Chair of the panel about admitting evidence for consideration by the board is final. This includes admission of written evidence and of oral evidence from witnesses or other parties at the hearing. The Chair may refuse to admit irrelevant evidence. The Chair may refuse to hear or have present any witness whose presence is not relevant or is disruptive or may prejudice the hearing.

1.29 **For consideration by representation or hearing**, the Chair may decide to postpone or adjourn consideration of a case if evidence is supplied without enough notice for it to be circulated and properly considered by the parties.

1.30 When consideration of a case has begun and if there is good reason, the Chair may adjourn it for normally no more than five (5) working days. If consideration of a case is adjourned, the Clerk must notify all parties in writing when and where it will restart, giving at least two (2) working days' notice.

1.31 The Chair's ruling is final on any point of procedure about the conduct of the consideration of a case.

<sup>1</sup> The Appeals and Review Board has the delegated authority of the Academic Board to interpret the policies and regulations.

1.32 Having considered the application **by representation or hearing**, the panel must decide on one (1) of the following outcomes:

- (a) To reject the application (in whole or part).
- (b) To refer the application to a Hearing Panel to consider it further and decide on an outcome. (This may take place in the student's absence if they have been given at least 48 hours' notice of the hearing and have indicated no intention to attend or failed to attend.)
- (c) To refer the application to be joined with another currently being considered by the panel, and decide on a joint outcome.
- (d) To uphold the appeal (in whole or part).

1.33 If the appeal is upheld (in whole or part), the panel will:

- (a) return the decision for reconsideration by the original decision-makers, taking into account such information or findings as the panel may regard as appropriate; or
- (b) return the decision to the original decision-makers, requiring them to take such action as the panel may regard as appropriate. The panel may not normally require the alteration of marks unless it has found an error in their totalling, transcription or omission.

1.34 Upholding the appeal in whole or in part does not necessarily mean the original decision will be reversed or altered.

1.35 The Clerk must communicate the Appeal Panel's decision to the student, giving its reasons for the outcome, as soon as reasonably possible and normally within five (5) working days of the decision.

NOTE: If a student on University of Plymouth validated awards is not satisfied, they may ask for the outcome to be reviewed under the University of Plymouth Academic Appeals Policy.

The policy is at: <https://www.plymouth.ac.uk/student-life/your-studies/essential-information/complaints-appeals-and-conduct>

Any questions should be put to the Office of Student Complaints, Appeals and Regulation (OSCAR).

#### Advice and support

1.36 Advice for students on academic appeals, and the associated lower-level College rules is available from the Student Hub or the GSM London Students' Union ([gsmadvicecentre@gsm london.ac.uk](mailto:gsmadvicecentre@gsm london.ac.uk)). More complex queries may be referred to appropriate individuals or the Office of Student Complaints, Appeals and Regulation ([oscar@gsm london.ac.uk](mailto:oscar@gsm london.ac.uk))

1.37 Advice for staff on academic appeals is available from their nominated Academic Policy Partner.

1.38 If any staff development needs are identified, these may be discussed with members of the Staff and Educational Development Team.

#### Fees

1.39 No additional fees or charges are associated with this policy.

1.40 If a student attends a hearing that considers their application and is successful, the College will pay their reasonable and proportionate expenses in attending the hearing.

Legal and regulatory context

- 1.41 These regulations have no specific legal or regulatory context, but all decisions will pay regard to the principles of good administrative decision-making outlined in *Associated Provincial Picture Houses Ltd. v Wednesbury Corporation [1948] 1 KB 223*.
- 1.42 Further, these regulations have also given regard to the principles outlined in R on the application of *Clarke v Cardiff University [2009] EWHC 2148 (Admin)* about exercising and reviewing academic judgment.
- 1.43 Additionally, these regulations have been informed by the UK Quality Code for Higher Education (UKQC), "Chapter B9: Academic appeals and student complaints". The UKQC is the definitive reference point for all UK Higher Education institutions and sets out how academic standards are established and maintained and how the quality of learning opportunities is assured and enhanced.
- 1.44 The College may not be bound by the principles in paragraph 2.48 and this policy alone may not provide the procedure to meet all of these principles, some of which may be met by other College policies and procedures.. It uses the principles as guidance only, to help it deal soundly with these matters.

Enforcement, monitoring and review

- 1.45 If any College body or a staff member, except a Board of Examiners, does not comply with a decision taken under these regulations, the matter will be reported to the Chair of the Academic Board. The Chair may seek advice from staff members who have not previously been involved in the matter and may decide how to resolve it, or may refer the matter to the Academic Board for it to resolve. After this, the decision of the Chair of Academic Board or of the Academic Board is final.
- 1.46 If a Board of Examiners makes a quorate decision not to comply with a decision taken under these regulations, its refusal must be referred to the next meeting of the Academic Board for it to resolve. All external examiners of the Board of Examiners must be invited to make individual or collective representations to that meeting in writing or in person. After this, the decision of a quorate Academic Board is final.
- 1.47 Each year, the College must receive a report that enables it to monitor, identify and act on any shortfalls in how this policy is interpreted and applied.
- 1.48 The annual report must include statistical data on the number of request for verification; the outcomes, Departments and programmes from which they originate; the length of the process; and the equality characteristics (including sex, disability and ethnicity) of those submitting requests.
- 1.49 It is good practice for an overview of this report to be published to all members of the academic community to enable them to make decisions about how these regulations might apply to them and the likelihood of success were they to request verification.
- 1.50 Every two (2) years, the College must review these regulations to ensure that:
- (a) they remain up to date and continue to meet the expectations of the UK Quality Code, applicable legislation or guidance;
  - (b) areas of improvement, or any concerns, raised by students, external examiners, or professional bodies have been addressed; and
  - (c) opportunities to reduce unnecessary bureaucracy have been taken.

Schedule (not part of the policies and regulations):

*Responsible Officer: Academic Registrar*

*Approved by: Board of Directors and Academic Board*

*Version: 2.0*

*Date: June 2017*

*Monitoring and Review Body: Academic Regulations and Awards Committee*

*Effective From: July 2017*

*Next Scheduled Review: February 2018*

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