

## **E6. REPRESENTATION OF STUDENTS AT HEARINGS**

This section of the Consolidated Academic Policies and Regulations (CAPR) has been agreed by the University of Plymouth (as the awarding body) as meeting its requirements for the representation of students at hearings in relation to regulatory matters<sup>1</sup> for programmes delivered by GSM London. The shaded sections below form GSM London regulatory and policy framework as applied to Plymouth University and GSM London awards.

### Purpose and scope

- 6.1 This section of the Regulations CAPR explains what representation is; how students may be represented or accompanied at meetings; who may represent or accompany them; and what approval may be required.
- 6.2 This policy applies to all other policies and regulations in the CAPR including schedules, and other related elements, and to any action taken on or after 1 December 2015 regardless of the date of the event giving rise to the action.
- 6.3 This policy also applies to all external organisations seeking to be party to any matter within the College.

### Definitions

- 6.4 'Representation' means the presence at a meeting or hearing of a person who has the power to act on another's behalf (a 'representative'), including presenting their case and answering questions on their behalf.
- 6.5 'Supporter' means the presence at a meeting or hearing of a person who accompanies the student who is there to provide support to the student at the hearing. This person is not expected to take part in the meeting or hearing and may only speak on the student's behalf if given permission to do so by the chair of the meeting or hearing.
- 6.6 'Equality of arms' means each party has the reasonable possibility of presenting its case, in conditions that will not put them at a disadvantage against the other. The principle relates to all equalities including representation, qualification, status, communication, and availability of documents.
- 6.7 'Hearing' means a formal meeting under a College regulation or policy. A hearing is usually for disciplinary or other enforcement reasons.

### Introduction

#### *Overview*

- 6.8 The College aims to promote a culture of openness and a shared sense of integrity by inviting all members of its community (including employees and students) to act responsibly

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<sup>1</sup> This refers to: Academic and Regulatory Appeals, Student Concerns and Complaints, Fitness for Study, Student conduct and Behaviour, Academic Misconduct

to uphold the College's reputation and maintain public confidence in Higher Education, the College and its awards.

- 6.9 As part of this, in any regulatory process of an adversarial nature (i.e., where there are opposing parties), it is important that all parties have equality of arms and protect each individual's ability to put their point of view. The College seeks to protect this right in balance with the whole academic community's needs, and its legal obligations.

### Principles

- 6.10 A student may be accompanied by a supporter to any hearing held under a College policy or regulation. The person will normally be their chosen member of the College community (student or staff), except in exceptional circumstances where the student may need another person present to give specialist medical or communication support. A student will not be permitted to bring a legal representative to a formal hearing unless the decision of the Panel or Committee is likely to exclude the student from professional registration permanently, without right to appeal, thereby preventing the student from following his or her intended career.
- 6.11 The person may only speak on the student's behalf or otherwise represent their interests if specifically given permission by the Chair of the meeting.
- 6.12 A student does not have the right to be accompanied by a supporter if the meeting is informal (e.g. an informal meeting to discuss academic or conduct matters with a personal tutor, module leader, member of the support services etc). However the staff member holding the informal meeting may agree to the student being accompanied by a supporter if they believe this will help in the matter. A student's request to be accompanied should not be refused unreasonably. A student should never be made to feel intimidated into being unaccompanied.

Process for applying for permission for Representation at a formal meeting or hearing: need for permission to be granted (**note: other than for information meetings, permission is not required if a student intends to bring a 'supporter'**)

- 6.13 A student does not have the automatic right to be represented. Representation is allowed only if the student has applied and been granted permission by the College.
- 6.14 A student will not be permitted to bring a legal representative to a formal hearing unless the decision of the Panel or Committee is likely to exclude the student from professional registration permanently, without right to appeal, thereby preventing the student from following his or her intended career.

### Procedures

#### *Overview*

- 6.16 The process for asking to be represented contains two (2) stages:

- (a) Stage 1 – Applying to be represented.
- (b) Stage 2 – Considering and deciding on an application.

6.17 A student may be accompanied by a supporter at any meeting as long as they comply with any reasonable request to submit the name of the person in advance, and answer any reasonable questions about their relationship with the person.

*Stage 1 – Applying to be represented*

6.18 A student may submit an application:

- (a) in writing on the prescribed form with the applicant's full name, student number and signature;
- (b) by 4pm at least five (5) working days before the date scheduled for the meeting; and
- (c) to the place and person stated in the written instructions.

6.19 The application must include:

- (a) a clear statement of the grounds for request (i.e., why the student believes there is a need to be represented);
- (b) all relevant evidence or details of events in support of the request; and
- (c) the student's relationship with the proposed representative or other person.

6.20 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.

*Stage 2 – Considering and deciding on an application*

6.21 The application for a student to be represented will be considered by a panel comprising the Chair of the Appeals and Review Board; the appointed Chair of the meeting for which the application is made; and another Senior Officer.

6.22 If the panel decides that the outcome of the meeting could deprive the student of the right to practise their chosen profession or could irretrievably prejudice it, then they must grant permission. In all other circumstances, the panel will decide whether or not to grant permission.

6.23 In deciding whether or not to grant permission, the panel should take into account relevant factors including:

- (a) the seriousness of the charge/allegation and the potential penalty/outcome for the student;
- (b) the student's capacity to defend or present their own case;

- (c) any difficulty the student may have in cross-examining witnesses, particularly any expert witnesses;
- (d) the need for reasonable speed in achieving an outcome;
- (e) the need for fairness between students or between the student and the College.

6.24 The panel will reach a decision and inform the student of the outcome within three (3) working days of the College receiving the application. Any delay in this timescale will be communicated to all parties before the deadline, with reasons for the delay.

6.25 The panel's decision on the application is final. There is no right of appeal.

#### Advice and support

6.26 Advice for students on the representation of students in hearings, and the associated lower-level College rules is available from the Student Hub ([studenthub@gsmlondon.ac.uk](mailto:studenthub@gsmlondon.ac.uk)) or the GSM London Students' Union ([gsmsuadvicecentre@gsmlondon.ac.uk](mailto:gsmsuadvicecentre@gsmlondon.ac.uk)). More complex queries may be referred to appropriate individuals or the Office of Student Complaints, Appeals and Regulation ([oscar@gsmlondon.ac.uk](mailto:oscar@gsmlondon.ac.uk))

6.27 Advice for staff on representation of students in hearings is available from their nominated Academic Policy Partner.

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

#### Fees

6.29 A fee may be charged for each application for representation as set out in the College's list of charges. If the application is granted, the fee will be fully refunded.

6.30 The College will not reimburse any of the student's costs in being accompanied or represented (legally or otherwise), and the College is not liable for financial or other consequences arising from action under this policy.

#### Legal and regulatory context

6.31 The principle of equality of arms applies to all procedures and processes. If not applied, it may make an otherwise non-judicial matter judicial, in particular under Article 6 of the European Convention on Human Rights. In other words, a matter that would normally fall outside the remit of a court would come within it.

6.32 This policy has been developed having regard to the application of these principles to internal proceedings of a College. In particular, it has regard to the opinion outlined in *R (G) v The Governors of X School* [2011] UKSC 30 and subsequent rulings that legal representation may be unhelpful and that the involvement of lawyers may have the 'chilling effect' of turning proceedings into litigation.

6.33 The College may not be bound by all the principles outlined in paragraph 6.32, 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.. The College uses the principles as guidance only, to help it deal soundly with these matters.

Enforcement, monitoring and review

6.34 If any person or body in the College refuses to comply with a request or decision made to enforce this policy, their refusal must be reported to the Academic Registrar, who will take such action to enforce this policy as they think necessary.

6.35 Each year, the College must receive a report that enables it to monitor, identify and act on any shortfalls in how these regulations are interpreted and applied.

6.36 The annual report must include statistical data on the number of requests for representation; the outcomes, Departments and programmes from which they originate; the length of the process; and the equality characteristics (including sex, disability and ethnicity) of successful and separately unsuccessful applications.

6.37 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: June 2018*