For APRC
16th May 2013

APRC.13.05.**04**

Amendment to the Code of Practice on Procedures for Misconduct and Fitness to Practise Committee

1. Topic and Purpose of Paper

The Committee is invited ***to consider*** and, if thought appropriate, ***to approve*** amendments to the Code of Practice on Procedures for Misconduct and Fitness to Practise Committee, with effect from 2013/14.

2. Proposal

That amendments are made to the above Code of Practice as shown in Appendix 1 (insertions underlined, deletions struck through).

3. Background and Consultation

The above amendments are at the request of the Student Conduct Office. It is proposed this change will provide clarity for students, Case Presenters, Chairs, and Committee members, and will also provide consistency with other regulations, such as Regulation 1. As part of this process, proposed changes were also discussed with Legal Services, Vice President for Education at the Guild of Students and the Fitness to Practise User Group.

4. Arguments to Support Proposal

The amendments aim to make clear:

(i) That it is the student's responsibility to provide evidence independently translated into English; this is in line with other Codes of Practice such as the Primary Appeals Procedure;

(ii) The order of proceedings during the Committee;

(iii) That Chairs need not proceed with a full hearing if the student fully admits the offence (unless there are exceptional circumstances which mean full hearing should be held);

(iv) That a hearing should proceed if the student is deemed to have only partially admitted the offence;

(v) That the student's final statement must be based upon only that evidence which has been presented to the hearing;

(vi) That ‘Closing Considerations’ is a separate section (now section 7) and must be addressed following the sanctioning deliberations.

Further amendments intend to introduce the following:

(vii) Greater discretion for the Chair to manage the hearing in such a way that natural justice is upheld. This caveat would allow some flexibility within reason and any deviation from the procedures would be explained fully to the student and Case Presenter during the hearing, recorded by the Misconduct Committee Secretary and explained in the Outcome Report. It is anticipated that this would only occur during unusual circumstances and to the Registered Student’s benefit;

(viii) A new sanction which allows conditions to be imposed in Fitness to Practise cases in order to remedy an impairment to the student’s fitness to practise. It is possible that conditions could be imposed alongside lesser sanctions, although it must be made clear by the Committee during sanctioning what the consequences are if the condition is not met. The imposition of a condition is different to the voluntary undertakings made by students at points 5.4.3 and 6.2.1;

(ix) Discretion for the Chair of the University Misconduct Committee to decide (in agreement with the other Panel members) *prior to the Committee* to hear the matter afresh. It is anticipated that this will make preparation of the case hearing more straightforward for Case Presenter and Student alike, and it should also mean that fewer hearings are adjourned to allow both parties to prepare their cases anew.

(x) A removal at 8.5.3 (a) as Regulation 8.5.1 will now highlight to the student that evidence to support the appeal to the University Misconduct Committee/University Fitness to Practise Committee should be submitted during the 15 working day Appeal timeframe (following the time allowed to appeal a College Committee decision being increased from 5 days to 15 days). This does not remove the student’s right to submit evidence after the deadline or at the hearing, although the admissibility of this evidence will be at the Chair’s discretion as per point 9.12 of the Code of Practice on Procedures for Misconduct and Fitness to Practise Committee. As with the point above, it is anticipated that this will mean the majority of the evidence will be received in a timely fashion and that fewer hearings are adjourned due to the submission of large amounts of evidence only five days before the hearing.

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