

**UNIVERSITY OF BIRMINGHAM**

**CODE OF PRACTICE ON ACADEMIC APPEALS**

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## 1. Principles

- 1.1 The Code of Practice applies to all Registered Students, Students on Leave of Absence, External Resit Students, Thesis Awaited Students and Graduands (“collectively referred to in this Code of Practice as “students”).
- 1.2 This Code of Practice applies to appeals against:
  - progress decisions taken by the University Progress and Awards Board and Boards of Examiners;
  - progress decisions taken by School Progress Panels and/or examiners of Research Degree theses;
  - decisions taken by the University Progress and Awards Board under the Code of Practice on Student Attendance and Reasonable Diligence.
- 1.3 The appeals process is not a method of circumventing or setting aside the professional or academic judgement of examiners on the performance of students; it is a way of ensuring that progress decisions are made in accordance with relevant procedures and that as far as possible all relevant circumstances affecting a student’s academic performance are taken into account.
- 1.4 The appeals process is evidence based. Independent supporting evidence should be provided with the appeal submission to substantiate any circumstances and the impact they had on the student. Circumstances cited in an appeal (including the impact of the circumstances on the student’s studies) or in a School response must be corroborated by evidence.
- 1.5 Evidence must be presented in English, with certified translations where necessary (all costs to be borne by the student).
- 1.6 The University will observe its Data Protection Policy and the relevant legislation relating to data protection in the handling of appeals.
- 1.7 The University will correspond only with the student; even if the address provided by the student is that of a ‘Friend’, solicitor or other third party, no correspondence will be entered into with that (or any other) third party.
- 1.8 Each School will appoint a designated Appeals Officer who may be, but need not be, a member of Academic Staff.
- 1.9 Student Conduct, Complaints and Appeals will issue a Completion of Procedures letter at the appropriate time to allow the student to complain to the OIA as a student may be eligible to complain to the Office of the Independent Adjudicator (OIA) for Higher Education, the independent body which reviews student appeals and complaints.
- 1.10 In considering appeals, the University will observe the rules of natural justice and procedural fairness.



- 1.11 In the case of students based at the University's overseas campuses working days will reflect national public holidays and any locally designated closed days.
- 1.12 The appeal procedure is divided into two main stages which must be followed sequentially: the Initial Appeal stage and the Senate Review stage.
- 1.13 The initial appeal stage does not apply to students undertaking a year or semester abroad who will be expected to use the appeals procedures of their host institutions. Any student who is dissatisfied after the outcome of an academic appeal at their host institution may use the Senate Review stage of this process if they meet the relevant grounds.
- 1.14 The University aims to resolve appeals within 90 calendar days from the date of submission of the appeal to the conclusion of the Senate Review stage, in accordance with the OIA's Good Practice Framework.

If a student is granted an extension to the normal deadlines at any stage of the process, the additional time will not be counted towards the 90-day resolution time.

In some cases it may be necessary to exceed the 90-day timeframe. Occasions may include (but are not limited to) cases where: a full hearing is called, or a complaint is being considered simultaneously and it is judged necessary to await the outcome of the complaint before concluding the appeal. The process may also take longer than 90 calendar days to complete where the appeal is submitted around University closed days. Where this aim is not achievable, students will be informed at the earliest possible opportunity and kept informed of progress.

## 2. Initial Appeal Stage

### Right to Appeal

- 2.1 A student may appeal against a decision taken by a Progress and Awards Board of Senate and Boards of Examiners (including those which lead to a degree classification<sup>1</sup>), and, for Research Degree students, decisions taken by thesis examiners and/or School Progress Panels. For students on postgraduate research programmes, the Research Progress and Awards Sub-Panel will take the place of the Progress and Awards Board of Senate.

### Grounds for Appeal

- 2.2 Appeals against progress decisions (including those which lead to a degree classification) may be submitted on one or more of the following grounds:
  - (a) that there were circumstances unknown to the Board of Examiners which contributed to a student's academic performance and consequently to the progress decision against which the appeal is being made, and the student can present good reason for

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<sup>1</sup> Please note that Registered Students **cannot** appeal the weighted mean mark, grade point average, or award of 'cum laude'.



these circumstances not having been made known prior to the meeting of the Board of Examiners;

- (b) that there was an administrative or procedural irregularity or failure in the relevant assessment(s), which may give rise to a reasonable doubt as to whether the progress decision would have been different if it had not occurred;
- (c) in the case of postgraduate research students only, that there has been bias in the assessment of their thesis on the part of one or more of the examiners.

2.3 Students will normally have brought to the attention of their School Extenuating Circumstances which they consider might affect their future academic performance and will have made appropriate submissions to their School in accordance with the Code of Practice on Extenuating Circumstances. Such submissions should have been made prior to meetings of the relevant Board of Examiners to enable the Board of Examiners to take those circumstances into account when formulating results and progress and award decisions (and, where appropriate, making recommendations to the University Progress and Awards Board). Information which students could have brought to the attention of their School as Extenuating Circumstances will therefore not normally be considered as 'circumstances unknown to the examiners'.

2.4 Appeals against decisions made by the University Progress and Awards Board under the Code of Practice on Student Attendance and Reasonable Diligence may be submitted on one or more of the following grounds:

- (a) that there was a material irregularity or failure in procedure which rendered the process leading to the initial decision unfair; or
- (b) that new evidence is now available that the student could not reasonably have been expected to produce at the time of the initial decision and which casts substantial doubt upon the appropriateness of that decision.

#### Student Submissions and Eligibility

2.5 Initial academic appeals must be submitted within **10 working days** of the date of the notification of the decision of the Board of Examiners or the outcome of the examination of the student's thesis. Appeals received after **10 working days** will only be considered by Student Conduct, Complaints and Appeals in the most exceptional circumstances. Appeals must be submitted on the Appeal Form which must be completed in full. Appeals which are not submitted on the Appeal Form will not normally be processed. Appeals must be submitted with corroborating evidence.

2.6 The appeal will be acknowledged on receipt. Student Conduct, Complaints and Appeals will assess the eligibility of the appeal, normally within 10 working days. Eligible appeals will be forwarded to the appropriate School.

2.7 Student Conduct, Complaints and Appeals will declare ineligible appeals which it considers:



- (a) are not submitted on one or more of the grounds specified in Sections 2.2 or 2.4;
- (b) are not submitted within the timeframe specified in 2.5 or which are submitted outside that timeframe but there are not sufficiently exceptional circumstances to justify considering it out of time;
- (c) amount to an attempt to circumvent or set aside the professional or academic judgement of examiners or markers
- (d) are submitted without corroborating evidence

2.8 A Completion of Procedures letter will be issued to any student whose appeal is declared ineligible.

#### School responses

- 2.9 School responses will be requested by Student Conduct, Complaints and Appeals for the Academic Appeal Committee to consider and must normally be submitted by the School to Student Conduct, Complaints and Appeals within **10 working days** of the date of notification of the appeal to the School.
- 2.10 Responses must be submitted on the School Response Form which must be completed in full. The School should provide evidence to support the circumstances laid out in its response.
- 2.11 In appropriate cases Schools may provide a single response to a group submission.
- 2.12 If a School response is not received within a reasonable timeframe following the notification of the appeal to the School, the decision may be taken to proceed on the assumption that the submission is supported by the School and to refer to the Academic Appeal Committee for ratification.

#### Academic Appeal Committee

- 2.13 Following submission of an Academic Appeal Form, eligible appeals will be reviewed by the Academic Appeal Committee. This is a paper-based review which the student does not attend. Exceptionally, when the Academic Appeals Committee considers it appropriate, a hearing will be required to which the student will be invited.
- 2.14 In the event that a hearing takes place, it is expected that the student will attend in person. The University may, at its discretion, approve arrangements for the student to attend by telephone or video conferencing where such arrangements are possible and it is unrealistic for the student to attend in person.

#### Academic Appeal Committee Membership

- 2.15 The membership of an Academic Appeal Committee conducting a paper-based review shall comprise no fewer than two and no more than three members of Academic Staff with



provision for substitution where necessary. The quoracy of two must comprise a Chair and a member of Academic Staff. In the case of a hearing the Committee shall comprise no fewer than three and no more than four members of Academic Staff with provision for substitution where necessary. The quoracy of three must comprise a Chair and two members of Academic Staff.

- 2.16 No person shall serve in respect of a case in which they have a personal interest, or when they have personal knowledge of the student arising out of an academic or pastoral connection with the individual concerned.
- 2.17 No person shall serve in respect of a case where they are a member of the same School as the student.
- 2.18 A Normally Registered Student nominated by the Guild of Students who is from a different PAU to the student, and who has received training from the University on Academic Appeal procedures, may also serve on Academic Appeal Committees. Meetings may at the discretion of the Chair proceed in the event of no Registered Student being in attendance.
- 2.19 Each committee shall be supported by a Secretary who shall be a member of Academic Services. The Secretary will not act as a member of the committee but will provide guidance on procedure and precedents where appropriate.

#### Academic Appeal Committee procedure

- 2.20 The Academic Appeal Committee shall consider all appeal submissions which have been deemed eligible by Student Conduct, Complaints and Appeals.
- 2.21 The Academic Appeal Committee shall base its deliberations on the information and evidence submitted.
- 2.22 After consideration of the submission and School response, the Academic Appeal Committee shall reach one of the following decisions:
  - (a) Reject the appeal and confirm the original decision against which the appeal is being made;
  - (b) Uphold the appeal in part or in full and permit the student to re-sit, repeat a module or repeat the year in whole or in part or for postgraduate research students to continue on the programme of study;
  - (c) In exceptional circumstances, convene a full hearing before an Academic Appeal Committee which will be conducted in accordance with procedures set out in the Guidance Note on Academic Appeals;
  - (d) Refer the matter back to the Board of Examiners (in cases of appeals against degree classifications or other awards);



- (e) In cases where a thesis has been examined, set the examination aside and direct new examiners are appointed. The Code of Practice for the Assessment of Research Degrees shall be adhered to.

- 2.23 The Committee may attach conditions to any of these decisions. Where conditions are attached the Panel shall specify the consequences of failure to comply with the condition (which for the avoidance of doubt may include rejection of the appeal).
- 2.24 The Committee cannot change marks or degree classifications.
- 2.25 Each decision made by a Committee will be confirmed, normally within five working days. The outcome letter will set out the reasons for the Committee's decision.
- 2.26 The procedure at a hearing of the Academic Appeal Committee is set out in the Appendix to this Code.
- 2.27 If the student is dissatisfied with the outcome following the paper-based review stage or the hearing, they may wish to consider the options that are available to them. If the student feels that they do not meet the grounds for submitting a Senate Review or a Grievance, then a Completion of Procedures letter may be requested from Student Conduct, Complaints and Appeals.

### **3. Senate Review Stage**

- 3.1 Following completion of the initial stage and the submission of a Senate Review Form, eligible cases will be reviewed by the Senate Review Panel. This is a paper-based review which the student does not attend.

#### Right to Senate Review

- 3.2 A student may request a review of the decision taken at the Initial Appeal Stage.

#### Grounds for Review

- 3.3 Requests for reviews of decisions made at the Initial Appeal Stage may be submitted on the following grounds:
  - (a) that there is evidence of a material procedural irregularity that has occurred in the handling of the appeal at the initial stage;
  - (b) that relevant new material evidence has come to light that was not available for a good reason at the time of the Initial Appeal Stage.

#### Student Submissions and eligibility

- 3.4 The request for review must be submitted within 15 working days of the date of the notification of the decision of the Academic Appeal Committee. Requests received after **15**



**working days** will only be considered by Student Conduct, Complaints and Appeals in the most exceptional circumstances. Requests must be submitted on the Review Form, which must be completed in full, with accompanying evidence. Requests which are not submitted on the Review Form will not normally be processed.

- 3.5 The appeal will be acknowledged on receipt. Student Conduct, Complaints and Appeals will assess the eligibility of the appeal, normally within 10 working days.
- 3.6 Student Conduct, Complaints and Appeals will declare ineligible requests which it considers:
- (a) are not submitted on one or more of the grounds specified in Section 3.3;
  - (b) are not submitted within the timeframe specified in section 3.4 or which are submitted outside that timeframe but there are not sufficiently exceptional circumstances to justify considering it out of time;
  - (c) amount to an attempt to circumvent or set aside the professional or academic judgement of examiners or markers;
  - (d) are submitted without corroborating evidence
- 3.7 A Completion of Procedures letter will be issued to any student whose appeal is declared ineligible.

#### School responses

- 3.8 School responses will be requested by Student Conduct, Complaints and Appeals for the Senate Review Panel and must be submitted by the School to Student Conduct, Complaints and Appeals within **15 working days** of the date of notification of the review.
- 3.9 Responses must be submitted on the School Response Form which must be completed in full. The School should provide evidence to support the circumstances laid out in their response.

#### Senate Review Panel Membership

- 3.10 Each Senate Review Panel shall comprise no fewer than three and no more than four members of Academic Staff with provision for substitution where necessary. The quorum of three must comprise a Chair and two members of Academic Staff. The Chair will be a senior member of the University, normally the Pro-Vice-Chancellor (Education) or their Deputy.
- 3.11 No person shall serve in respect of a case in which they have a personal interest, or when they have personal knowledge of the student arising out of an academic or pastoral connection with the individual concerned.
- 3.12 No person shall serve in respect of a case where they are a member of the same School as the student.



- 3.13 A Registered Student may also serve on a Senate Review Panel, though meetings may at the discretion of the Chair proceed in the event of no Registered Student being in attendance.
- 3.14 Each panel shall be supported by a Secretary who shall be a member of Academic Services. The Secretary will not act as a member of the panel but will provide guidance on procedure and precedents where appropriate.

#### Senate Review Panel Process and Outcomes

- 3.15 The Senate Review Panel shall consider all eligible review submissions.
- 3.16 The Senate Review Panel will carry out a paper-based review and shall base its deliberations on the information submitted by the student and the School, if applicable.
- 3.17 Neither the student nor School will normally be permitted to introduce further new material at the Senate Review stage unless it was not known to the student or School when the original appeal was submitted and the Chair deems it admissible.
- 3.18 After consideration of the submission and School response, the Senate Review Panel shall reach one of the following decisions:
- (a) Reject the appeal, with reasons, and confirm the original decision against which the appeal is being made.
  - (b) Uphold the appeal in part or in full and permit the student to re-sit, repeat a module or repeat the year in whole or in part or for postgraduate research students to continue on the programme of study.
  - (c) Refer the matter back to the Board of Examiners (in cases of appeals against degree classifications or other awards).
  - (d) In cases where a thesis has been examined, set the examination aside and direct new examiners are appointed. The Code of Practice for the Assessment of Research Degrees shall be adhered to.
- 3.19 The Senate Review Panel may attach conditions to any of these decisions, such as the provision of medical evidence that the student is fit to resume study. Where conditions are attached the Panel shall specify the consequences of failure to comply with the condition (which for the avoidance of doubt may include rejection of the appeal).
- 3.20 The Senate Review Panel cannot change marks or degree classifications.
- 3.21 A Completion of Procedures letter will be sent to the student at this stage if the appeal is not upheld in full.

#### **4. Grievance to Council**



- 4.1 If the student is dissatisfied with the outcome following the Senate Review stage, they can submit a grievance to the University Council. A grievance can be submitted if in the student's opinion, their concern(s) refer to matters of University governance. The grievance will be considered through the Guidance on Grievance to Council Procedure.
- 4.2 A Grievance to Council should be submitted within one month of the Senate Review outcome letter.
- 4.3 Any Grievance that does not demonstrate matters of University Governance is likely to be deemed ineligible. A fresh Completion of Procedures letter will be issued.

## **5. Office of the Independent Adjudicator (OIA)**

- 5.1 The Office of the Independent Adjudicator (OIA) is an independent body set up to review student complaints. The OIA can look at individual complaints against Further Education & Higher Education providers in England and Wales. The OIA will normally review a case only if all internal University procedures have been exhausted.
- 5.2 Guidance on the OIA scheme can be obtained from Student Conduct, Complaints and Appeals, Guild Advice at the Guild of Students, or from the OIA web site: [www.oiahe.org.uk](http://www.oiahe.org.uk).

## Appendix – Proceedings at an Academic Appeal Committee Hearing

- A.1 The student will be invited to attend the hearing to present his or her case, and may be accompanied by a 'Friend', as defined in Regulation 1. If a student does not attend a hearing, having declared an intention to do so, the Committee has the right to consider the case and to reach a decision in the absence of the student without further notice. In this event, the student shall have no grounds for appeal, or for seeking a further hearing, solely on the basis of their non-attendance at the hearing.
- A.2 All correspondence will be sent to the student whether or not they are accompanied by a "Friend".
- A.3 In all cases, a representative from the relevant School will be invited to attend the hearing to present the reason for the Board of Examiners' decision, to provide any necessary information which might not have been included in the School response and respond to any new material which is exceptionally permitted to be introduced. If the School representative is unable to attend, the Committee may proceed in their absence.
- A.4 For appeals from students on collaborative programmes or student placements, the School's representative may arrange for a relevant person, who may be either a member of staff from the collaborative institution or placement provider or a member of staff of the University, to attend the hearing also. This is for the purposes of advising the hearing on matters which are outside the knowledge of the School which relate to the collaborative programme or placement or to related University legislation, Codes of Practice or guidance. The School's representative shall be responsible for inviting that person to attend and for notifying the time and place of the hearing.
- A.5 A student may object to any member of the hearing on one of the grounds specified in sections 2.14 and 2.15 of the Code of Practice on Academic Appeals. Any such objections must be submitted within two working days of the notification of hearing membership being sent. That person may, at the discretion of Student Conduct, Complaints and Appeals, be required to withdraw and may be replaced.
- A.6 At the start of the hearing, the Chair shall summarise the procedure to be adopted and ask the student whether they wish to raise any procedural points.
- A.7 The Chair has the discretion to manage the hearing as appropriate to ensure:
- (a) fairness;
  - (b) that all parties have an opportunity to make statements and to be questioned about the appeal;
  - (c) that the Student, if present, is given the opportunity to make the final statement.
- A.8 When present, the School's representative and the student will each be present when the other is speaking.



- A.9 Evidence will not normally be permitted to be introduced at a later stage unless it was not known or available to the Student / School at the time of submission of the appeal / School response.
- A.10 The members of the Academic Appeal Committee, in the absence of all other persons except the Secretary to the hearing, will consider the matter and to take a decision on the course of action which is appropriate, within the Regulations and requirements which apply to the programme for which the student is registered.