

UNIVERSITY OF BIRMINGHAM

CODE OF PRACTICE ON STUDENT CONCERNS AND COMPLAINTS

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1 Introduction

- 1.1 The University of Birmingham is committed to providing a high quality educational experience, fully supported by a range of academic and administrative services and facilities. From time to time, however, things do go wrong, and the University recognises the need for students to be able to express their dissatisfaction where this happens.
- 1.2 It is through this Code of Practice that the University provides students with an accessible system for raising concerns and complaints, and ensures that these are handled as fairly, consistently and quickly as possible. Students who raise concerns or complaints through this Code of Practice may do so without fear of recrimination.
- 1.3 The Code of Practice applies to all Registered Students of the University, Students on Leave of Absence, External Resit Students, Thesis Awaited Students and Graduands. However, it can be used by former students¹ provided that the event(s) or issues raised took place while they were Registered Students and that exceptional circumstances prevented them from raising the matter within one month of the relevant incident (as set out in paragraph 3.1 below). This Code of Practice also applies to Apprentices at the University of Birmingham.
- 1.4 The Code of Practice can be used for both individual and collective concerns or complaints.
- 1.5 Students are advised to contact **Guild Advice** in the Guild of Students for advice and support throughout the process of raising a concern or a complaint.
- 1.6 Where a student's concern/complaint is considered to be unreasonable, or a student's behaviour in relation to the concern/complaint is considered to be unacceptable, action may be taken as set out in Appendix 2. In appropriate cases, disciplinary action may be taken against the student.
- 1.7 All information received as a result of an investigation into a concern or a complaint will remain confidential to those involved in the process and those who may need to be consulted in order to reach an appropriate outcome. However, it should be noted that, in the interests of natural justice, key individuals referred to in the complaint will be informed of the complaint and outcome.
- 1.8 No concerns or complaints from third parties will be dealt with under this Code of Practice. Correspondence will not normally be entered into with third parties, except in exceptional circumstances, and only with the express authority of the student.
- 1.9 Anonymous concerns or complaints will not be dealt with under this Code of Practice.
- 1.10 The Code of Practice on Student Concerns and Complaints cannot be used to challenge the professional academic judgment of examiners on the performance of students.

¹ For the purposes of this Code of Practice, the term 'student' therefore applies to both current and former students of the University.

1.11 The procedure should **not** be used for any of the following, for which separate procedures exist:

- Appeals against academic assessment and progress decisions, or requests for academic redress;
- Review of admissions decisions;
- Appeals against disciplinary or other penalties;
- Claims in respect of personal injury or damage to property;
- Staff-related issues, where the student is also a member of staff;
- Concerns or complaints concerning the Guild of Students;
- Concerns or complaints concerning businesses operating on University premises, but not owned by the University;
- Concerns or complaints about decisions by third parties relating to access to disabled students allowance;
- Concerns or complaints falling within other procedures established within the University.

If, upon receipt of a complaint, it is felt that the matter falls into one of the categories listed above, the student making the complaint (“the Complainant”) will be advised how to proceed. The University may decide that, in the interests of fairness, a case which contains elements falling within these categories should be resolved solely within one of those designated procedures.

1.12 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.

2 Stages of the Code of Practice

2.1 The Code of Practice on Student Concerns and Complaints is divided into two main stages which **must be followed sequentially**: the formal stage and the review stage, as follows:

Stage 1) Raising a Concern

- If, after initial consideration of a concern by a relevant member of staff (paragraphs 3.1 – 3.2), a Complainant can raise a formal concern/complaint with the Head of School/Corporate Service or Student Conduct, Complaints & Appeals (paragraphs 3.3 – 3.10).

Stage 2) Senate Review Panel

- If, after the conclusion of the concern by the Head of School/Corporate Service or Student Conduct, Complaints & Appeals, a Complainant can request a Senate Review Panel, (paragraphs 4.6 – 4.11).

2.2 Following completion of the Senate Review Panel stage, the Complainant may be eligible to complain to the Office of the Independent Adjudicator for Higher Education, an independent body which reviews student complaints.

- 2.3 If the Complainant is an Apprentice at the University of Birmingham then, following completion of the Senate Review stage, they also have the opportunity to raise their complaint with the Education & Skills Funding Agency (ESFA) if they are not satisfied with the University's response. Apprentices can contact the Department for Education if they are unhappy with how the ESFA has dealt with their complaint. Complainants who are Apprentices at the University of Birmingham also have the opportunity to have their complaint independently reviewed by the Office of the Independent Adjudicator (OIA).

3 Raising a Concern – Formal stage

- 3.1 It is expected that most concerns will be resolved informally and as close to the origin of the concerns as possible. Complainants should first discuss their concerns with Guild Advice². If so, the Complainant should raise their concerns with the most appropriate member of staff within the relevant School/Corporate Service (e.g. the Programme Director, Personal Academic Tutor or Supervisor or Manager) who will try to resolve the matter informally. Save in exceptional circumstances concerns should normally be raised with an appropriate member of staff **within one month** of the relevant incident.
- 3.2 Complainants should attempt to raise their concerns locally and informally within the relevant School/ Department and/or Corporate Service. The University accepts that this will not always be possible or practical, but any complaint submission should include either evidence of or reference to attempts at local resolution.
- 3.3 If the Complainant remains dissatisfied following consideration of and feedback and/or action regarding their concerns by an appropriate member of staff, the Complainant should raise their concerns in writing using the Concern Review Form and send the completed form to Student Conduct, Complaints & Appeals **within one month** of the date of the initial response from an appropriate member of staff (as detailed in paragraph 3.1).
- 3.4 Copies of the Concern Review Form are available on the [University's Intranet Pages](#) or from Guild Advice.
- 3.5 Complainants are advised to consult Guild Advice before submitting the form. The form should detail the aspects of the Complainant's concerns, what action has already been taken (if applicable) to attempt a resolution, and why the action taken has not led to resolution of the matter. The desired redress (i.e. outcome) should be stated clearly. The form is designed to ensure that the University is provided with the information necessary to investigate the concerns, and if the Complainant does not set out their concerns in writing using the form, it is likely that the investigation process will be longer.
- 3.6 An appropriate Investigating Officer ('IO') will be appointed by the Head of School/Corporate Service, who will investigate the complaint/concern. The IO should arrange a meeting with the Complainant to discuss the issues in detail. Such meetings may be conducted remotely, where appropriate. If, after reasonable attempts to arrange the meeting, the Complainant is

² For students studying at the University's overseas campuses the responsibilities of the Guild of Students will be undertaken through the appropriate local student representation system.

unwilling or unable to attend, the IO may proceed with their investigation notwithstanding that a meeting with the Complainant has not taken place.

- 3.7 The Complainant is entitled to be accompanied at any such meeting by a 'Friend', as defined in Section 1 of the University Regulations. The role of the Friend is normally to support the Complainant, rather than to participate actively in any meeting.
- 3.8 The IO will investigate the matter and provide a detailed written response to the Complainant normally within 20 working days of the date of the receipt of the Review Form.
- 3.9 If all parties are agreeable, mediation or alternative means of resolving the matter may be attempted at any stage of the procedure. The mediation process is confidential. The agreement to mediate and the outcome of the mediation will be kept on the complaint file as part of the complaint. Where appropriate, and with the consent of the Complainant, a mediator may raise with Student Conduct, Complaints & Appeals or the appropriate University committee, general issues concerning quality and provision for Complainants.

4 Senate Review Panel – Review stage

- 4.1 If the Complainant believes the complaint remains unresolved following the IO response, the Complainant may request that the case be referred to a Senate Review Panel. The request must be made **within one month** of the date of the response from the IO. **Complainants are strongly recommended to consult Guild Advice before submitting a Senate Review request.** If a complaint relates to the conduct of another student then the provisions in A1.3, A1.4 and A1.5 of Appendix 1 apply.
- 4.2 The request should detail the aspects of the complaint, what action has been taken to attempt a resolution with the School or Corporate Service, and why the response of the IO has not led to resolution of the Complainant's concerns. The desired redress (i.e. outcome) should be stated clearly. The Senate Review Panel Form is designed so that the University is provided with the information necessary to consider the complaint in full. When completed, the Senate Review request should be sent to Registry.

The Senate Review Panel

- 4.3 The Senate Review Panel will be chaired by a Pro-Vice-Chancellor (normally the Pro-Vice-Chancellor (Education)) or their deputy. The Panel will comprise a Chair, up to 2 members of staff appointed by the Chair and a full-time Registered Student nominated by the Guild of Students who is from a different School to the Complainant and who has received training from the University on complaint procedures. If the Registered Student member of the Panel is not in attendance for whatever reason, the Panel may proceed in their absence at the discretion of the Chair.
- 4.4 The Senate Review Panel will carry out a paper-based review of the complaint, based upon the key documents generated at earlier stages of the process and any further documentation which the Complainant and the School/Corporate Service wish to add. The review does not normally include a 'hearing' or a meeting with either party.

- 4.5 The School or Corporate Service will be asked to provide a response to the Senate Review Panel submission for consideration by the Panel, a copy of which will be sent to the Complainant for information.
- 4.6 The role of the Senate Review Panel is to determine whether:
- (a) the appropriate processes have been followed during consideration of the case;
 - (b) those considering the case have exercised fairness and proportionality in applying their judgement;
 - (c) it is appropriate, irrespective of their assessment of a) and b) above, to propose an alternative resolution to the Complainant at this stage of the Code of Practice.
- 4.7 Following the Review, the Panel may decide:
- (a) that the processes followed and judgements applied were appropriate; or
 - (b) that the case be referred to an earlier stage of the Code of Practice for re-investigation; or
 - (c) that, irrespective of their assessment of a) and b) above, an alternative resolution be proposed to the Complainant.
- 4.8 The outcome of the Senate Review Panel meeting will be communicated to the Complainant in writing, normally within five working days of the Panel meeting.

5 Next Steps for Complainants

Grievance to Council

- 5.1 The Senate Review completes the internal procedures of the Code of Practice on Student Concerns and Complaints. Should the Complainant still feel aggrieved, it may be possible to raise a grievance to the University Council, provided that, in the opinion of the Registrar and Secretary, the complaint concerns matters of University governance. Further details are available on the [University's Intranet Pages](#).
- 5.2 The Complainant should inform the University within one month whether they wish to submit a grievance to Council. If this is not submitted, the University will issue a Completion of Procedures letter.

Office of the Independent Adjudicator (OIA)

- 5.3 If the complaint does not meet the criteria for pursuing a grievance to Council, or if the grievance procedure has been completed without achieving a resolution of satisfaction to the Complainant, the University will issue a Completion of Procedures Letter.
- 5.4 The OIA will normally review a case only if all internal University procedures have been exhausted.



- 5.5 Guidance on the OIA scheme can be obtained through the Registrar and Secretary, Director of Academic Services, Guild of Students, or the OIA website: www.oiahe.org.uk.

Education and Skills Funding Agency (ESFA)

- 5.6 If the Complainant is an Apprentice at the University of Birmingham and has completed the internal procedures of the University and remains dissatisfied, they can raise their complaint with the Education & Skills Funding Agency (ESFA). You must contact the ESFA within 12 month after the issue happened.

ESFA complaints team
complaints.ESFA@education.gov.uk

Complaints team
Education and Skills Funding Agency
Cheylesmore House
Quinton Road
Coventry
CV1 2WT

- 5.7 If Apprentices are unhappy with the ESFA response they can contact the department for Education:

<https://www.gov.uk/government/organisations/department-for-education/about/complaints-procedure>

- 5.8 Complainants who are Apprentices at the University of Birmingham also have the opportunity to have their complaint independently reviewed by the OIA.

Appendix 1: Complaints against Staff and Students

Complaints against Staff

A1.1 For cases relating to staff conduct or allegations of bullying and harassment against a member of staff, the IO may determine on the following outcomes:

- That the appropriate staff procedure be initiated by an appropriate person in accordance with the procedure that applies to the conditions of employment for the member of staff against whom the complaint is raised. The Director of Human Resources or nominee shall identify the appropriate person in consultation with the School/Corporate Service and notify relevant parties of the procedure that is to be followed; or
- That the Complainant's concerns relating to the professional conduct of the staff member or the allegations of bullying and harassment against a member of staff are unfounded.

A1.2 Complainants cannot initiate disciplinary procedures or require that disciplinary procedures be initiated; the decision on whether or not staff disciplinary procedures should be initiated will be taken in accordance with the University's Ordinances and the relevant terms and conditions of employment. The details or outcome of any staff procedure that results from a student complaint cannot normally be shared with the Complainant.

Complaints against Students

A1.3 Cases relating to student conduct will be considered in accordance with University Regulations, Section 8.

A1.4 A Senate Review Panel cannot overturn any decision taken previously by the University to commence or not commence disciplinary proceedings against a student.

A1.5 Allegations of bullying or harassment by another student may be referred to the University's Harassment Services.

Appendix 2: Unreasonable concerns/complaints and unacceptable behaviour

- A2.1 The University understands that raising a concern or complaint can be stressful for students. However, the University does not expect Staff dealing with concerns/complaints to address unreasonable issues or to tolerate behaviour which it considers to be unacceptable.
- A2.2 Concerns or complaints which the University considers to be unreasonable may include:
- concerns/complaints which are malicious and/or obsessive and/or excessively prolific and/or repetitious;
 - concerns/complaints which do not clearly identify the precise issues which the student wishes to be investigated.
- A2.3 Behaviour which the University considers to be unacceptable may include:
- communication which is offensive, aggressive, intimidating, defamatory or harassing;
 - communication which is excessively persistent or demanding;
 - unreasonable refusal to co-operate with the requirements of the Student Concerns and Complaints Procedure;
 - adoption of a 'scattergun' approach, for instance, raising the same concern/complaint with multiple members staff;
 - covert recording of meetings and conversations.
- A2.4 If such communication or behaviour is identified, the University may take steps to terminate consideration of the complaint. This is not a decision that will be taken lightly and will apply only to the complaint at hand, and not necessarily to any future complaints about other matters.
- A2.5 The initial decision as to whether a concern/complaint is unreasonable and/or whether a student's behaviour is unacceptable will be taken by the Director of Registry (or nominee), in consultation with and other relevant colleagues.
- A2.6 If it is determined that a concern/complaint is unreasonable, or that the nature of the communication and/or behaviour within a complaint submission is unacceptable, the student will be informed of the initial decision has been taken and asked to revise and resubmit the concern/complaint by a specified deadline or to alter their behaviour. If the student does not do so, or if the Director of Registry (or nominee) considers that the resubmitted document continues to be unreasonable or that the nature of the communication continues to be unacceptable, the University will terminate the consideration of the concern/complaint.
- A2.7 The period of termination or restriction of contact will only be extended if there are good reasons for doing so. The University may be unable to continue with its consideration of the concern/complaint while the termination or restriction of contact is in operation. In appropriate cases, the University may also take disciplinary action against the student.
- A2.8 If the student wishes to appeal against the decision to terminate consideration of the concern/complaint and/or the decision to terminate or restrict contact as described above, they may do so by writing to the case handler. The case handler will arrange for the student's

appeal to be considered by the Director of Academic Services (or nominee), who will consult with the Pro-Vice-Chancellor (normally Education) (or their deputy) and a Sabbatical Officer of the Guild of Students. If the Director of Academic Services confirms the decision, the student will be advised in writing that they may request a Completion of Procedures letter in order to complain to the OIA.

A2.9 A decision to terminate the University's consideration of the concern/complaint does not prevent the student from raising a new and different concern/complaint about other matters, but further concerns/complaints about the same matter will not be considered. New and different concerns/complaints from students whose behaviour has previously been deemed unreasonable or unacceptable will be treated on their merits. Restrictions imposed in respect of an earlier concern/complaint will not automatically apply to a new matter.