



ACADEMIC  
REGISTRARS  
COUNCIL

# **A Reference Document on Academic Appeals and Extenuating Circumstances for University Practitioners**

**(Primarily for Taught Students)**

**Academic Registrars' Council  
April 2011**



<b>Contents</b>		<i>Page</i>
	<b>Foreword</b>	5
<b>1</b>	<b>Background</b>	7
<b>2</b>	<b>Executive Summary</b>	9
<b>3</b>	<b>Principles, aims and constraints</b>	11
	Principles	11
	Aims	11
	Legal constraints	11
	Contractual and procedural matters	12
	Further external constraints	12
<b>4</b>	<b>Definitions</b>	13
<b>5</b>	<b>Communications</b>	15
	Communications with students	15
	The role of ARC and practitioners	15
<b>6</b>	<b>Extenuating circumstances</b>	17
	Introduction	17
	Approach	17
	Definitions	17
	Procedure and processes	18
	Implementation	19
	Outcomes	20
	Accountability/monitoring/evaluation	21
<b>7</b>	<b>The academic appeal process</b>	23
	Introduction	23
	Stages within an academic appeal process	23
	Deadlines	23
	The decision appealed against	24
	Grounds and evidence	24
	The receipt of an appeal	25
	A filtering stage	25
	A preliminary stage	26
	Scope of Process	26
	Administrative process	26
	The academic appeals board	27
	Records	29
<b>8</b>	<b>Review and improvement</b>	31
	<b>Appendix: Those involved in drawing up this document</b>	33



## Foreword

The Academic Registrars' Council (ARC) is a membership organisation made up of the Academic Registrars or equivalent of the United Kingdom's publicly-funded higher education institutions. Its purposes are to provide an information and support network for its membership, to promote and share best practice in the academic administration of higher education and to provide a source of operational knowledge and experience available to practitioners at any time.

ARC has several Practitioner Groups that develop policy and practice in specialised areas of HE administration. The Appeals and Complaints Practitioners' Group was established in 2007. It is an effective forum for professionals dealing with academic appeals and student complaints, and has approximately 75 contributing members. Colleagues share experiences, learn from good practice, and reflect on Court and OIA judgements and those bodies operating within devolved administrations affecting institutional approaches to processing academic appeals or complaints. This document concentrates on aspects of academic appeals. Its members enhance procedures through engagement with external organisations, including the Office of the Independent Adjudicator, the Quality Assurance Agency, the National Union of Students and colleagues from the legal profession.

The Group has identified a need amongst practitioners, particularly those new to the profession, for access to examples of good practice and for national guidelines on dealing with and processing academic appeals. Although the QAA has dedicated a section of its *Code of Practice* to academic appeals and student complaints, the practitioners felt that it would be beneficial to develop a separate reference document which would be more practically orientated and which could be used as a supplement to the QAA document.

In parallel with the work of QAA and OIA the National Union of Students published a report in February 2009 entitled "Review of Institutional Complaints and Appeals Procedures in England and Wales". In it the NUS invited universities to reflect upon the need to reform university appeals and complaints procedures. The report highlighted the benefits for students and for universities of adopting a more consistent approach to processing academic appeals.

This reference document therefore represents the main conclusions of the ARC Practitioners' Group's review of academic appeals and extenuating circumstances procedures in the UK. It contains suggestions and guidelines on how universities might wish to structure procedures and deal with academic appeals. It also offers guidance on how to consider extenuating circumstances. The content is largely based on the work and recommendations of two task groups, but it has also been informed by comments of practitioners through national consultation with students and with colleagues in the legal profession. The Group would like to record its appreciation to all those colleagues who have contributed to this work, including ARC for assistance in the editorial work.

**Huw Landeg Morris (Chair)**  
Swansea University

**Janet Pugh (Deputy Chair)**  
University of Southampton

**Mark Thomson (Secretary)**  
London School of Economics



# 1 Background

1.1 We all recognise that academic appeals practice and procedures vary considerably between universities. This diversity is inevitable. The sector includes small specialist institutions and ranges up to the large research-led universities, with varying missions. Academic provision differs: some institutions offer considerable collaborative or distance learning activity and some have overseas campuses while others offer only locally-taught programmes. Universities also have very different internal structures. This diversity gives rise to equally diverse appeals processes.

1.2 Universities face ever-higher levels of external scrutiny, most notably by the OIA and the QAA. Students have become more litigious, and colleagues have witnessed an increasing interest in university procedures from solicitors representing students. It is inevitable that institutional practices and procedures will be compared. Furthermore, procedural 'harmonisation' might be imposed on the sector – in the light of legislation and of judgements of the courts or the OIA and the bodies operating within devolved administrations – regardless of institutional autonomy.

1.3 This document emphasises high-level principles. Common principles underlie all the most effective academic appeals procedures, despite the operational differences of the universities. But it also gives guidance at a more practical level. By sharing best practice each university can improve its processes and an element of consistency in key areas of work can be gradually introduced across the sector.

1.4 Practitioners are therefore invited to reflect upon the conclusions of the Group's research and to consider whether the advice contained in this report is relevant to their local needs. The Group will review its advice continuously and will add or replace examples of good practice, as appropriate. Further guidance will be added periodically, for instance relating to academic appeals involving partner institutions through collaborative activities. Practitioners, institutions and the NUS have been and will continue to be invited to provide feedback on the advice being offered through this document, in an attempt to refine and improve the Group's support to practitioners. Sections will be added as guidance is developed by the Group, for instance, relating to appeals for research degrees and collaborative degrees. It is the Group's view that both students and universities will benefit from this work.

1.5 There is generally agreement, nationally, that students should be encouraged – even required – to submit evidence of extenuating circumstances before or during the affected assessment exercise/event. This allows appropriate support to be put in place for the student. It also means that the examination board can consider the effect of those circumstances and act appropriately and in good time. We therefore support the practices being developed by some universities to restrict the grounds on which a student may submit an academic appeal after the publication of results. This document provides advice and guidance to universities on adapting procedures and practices that encourage students to take timely action in alerting the institution to their problems, as opposed to doing so after the results have been processed. It recognises, however, that there will always be some cases in which extenuating circumstances affecting summative performance will need to be addressed post-assessment.



## **2 Executive summary**

2.1 All actions connected with the consideration of extenuating circumstances and of academic appeals should respect the principles set out in this guidance, which include the need to ensure that bodies can take decisions at the appropriate time and that students who have demonstrated genuine extenuating circumstances are not unfairly disadvantaged thereby.

2.2 Processes adopted by universities should

- (a) aim at producing results that are fair in the circumstances, respect academic standards, protect the university against criticism by OIA or others, and are promptly delivered.
- (b) accord with the principles of natural justice.
- (c) be simple to operate and be widely publicised.

2.3 Extenuating circumstances should be defined, and their claim should be made early enough for the examination board to consider them at the proper time. Later claims should be considered only when there are good reasons for the lateness.

2.4 Universities should respond in an equitable and consistent way to requests from students for special consideration due to unforeseen or ongoing extenuating circumstances, provided that acceptable documentary evidence to substantiate the claims is provided. However, universities should not adjust marks in an attempt to compensate for the circumstances.

2.5 When dealing with student cases, particularly relating to sickness, universities should adopt principles which mirror those applied for employees and are designed to foster a professional approach by students to their studies. It is felt that such an approach would prepare students for the place of work, and highlight the need for students to accept responsibility for the way in which they conduct themselves.

2.6 Data on the various processes and their outcomes should be routinely collected and studied, and there should be regular attention to the processes concerned to ensure that they continue to represent best practice.

2.7 Institutions are reminded of the importance of involving students throughout the process of managing academic appeals, including: during the consultation process, when reviewing policies and procedures; analysing data for enhancement purposes; gauging views on aspects of the procedures; and, possibly, student involvement in assessing appeals.



### **3 Principles, aims and constraints**

#### **3.1 Principles**

3.1.1 The advice given here reflects the need to ensure that there is always a fair, independent, legally-robust and published system in place that, as far as possible, provides students and other external bodies, such as the OIA, with assurance that cases are processed impartially and in a professional manner.

3.1.2 The relevant principles are that such a system should:

- be formally agreed by the university
- be published in forms accessible to all those who might need to refer to it and given to those who do need to do so
- avoid any suspicion that those who make the decisions on a student's claims are not fully and wholly independent of those responsible for the decision arising from the complaint or appeal
- comply fully with all relevant legal constraints including the constitutional documents of the university
- take proper note of the QAA Code of Practice and of OIA experience/recommendations
- be operated in full compliance with the procedures for it as agreed by the university
- produce a decision as quickly as possible in the circumstances.

#### **3.2 Aims**

3.2.1 The object of both the consideration of extenuating circumstances and of the academic appeal process is to ensure that students are treated fairly in assessment and that any errors in it are promptly and fully corrected. Academic standards cannot be compromised in any way.

3.2.2 There can be no appeal against academic judgment, which in this case is the decision to accord a particular result to a student in the light of all relevant evidence and according to the procedures established by the university. Failure to consider the evidence or to observe the procedures, even by academics, cannot be justified by reference to academic judgment.

3.2.3 Administrative demands must take second place to the securing of justice, and there should be periodic reviews of procedures to ensure that the procedures used remain effective, consistent with the law and regulations, and not excessively burdensome on any of those involved in using them.

#### **3.3 Legal constraints**

3.3.1 The university remains an autonomous body responsible for its own decisions through its own mechanisms. It must be fully conscious of the risks inherent in its actions and in the procedures governing them.

3.3.2 The university is bound by law to respect fully all relevant Acts of Parliament and secondary legislation and its own constitutional documents.

3.3.3 The Acts include the following:

- The Race Relations Act 1976 (as amended), the Disability Discrimination Act 1995 (as amended 2005) and the Special Educational Needs and Disability Act 2001 place positive obligations on universities to ensure that as far as possible its practices, including regulations and procedures, do not bear more heavily against the specific groups concerned than against others. Due notice should be taken of the danger of inadvertent, indirect discrimination.
- The Human Rights Act 1998 creates obligations on those conducting tribunals, including assuring the independence of the decision-makers from those making the original decision against which the complaint or academic appeal lies, and the right of the appellant to make representations.

- The Freedom of Information Act 2000. It is best to assume that proceedings of all committees and boards are publicly available unless stopped by any legitimate reason (see for example the DAP below).
- In Wales, the Welsh Language Act (1993 and amendments): universities must take into account the implications of the student's right to correspond with them and to be heard in formal meetings in Welsh, and to be assessed in that language.
- The Data Protection Act 1998: evidence considered during appeals processes may be medical in nature or otherwise regarded as sensitive personal data under the Act and therefore particularly restricted as to publication. Care may be needed to balance the need of the appellant for information against that of other individuals for protection.
- The Equality Act 2010: this Act strengthens the various conditions and obligations applicable to universities and applies them to
  - age
  - disability
  - gender reassignment
  - marriage and civil partnership
  - pregnancy and maternity
  - race
  - religion or belief
  - sex
  - sexual orientation.

### **3.4 Contractual and procedural matters**

#### 3.4.1 The university must respect fully:

- The published relationship between the university and its students: the contractual obligations on a student and the university to observe the university's regulations and to proceed in the ways set out in student charters and analogous documents.
- Procedural fairness: the public law requirements of ensuring fairness of procedure and adherence to the principles of natural justice. These requirements apply irrespective of institutional tradition and culture, professional body requirements and subject norms, which may lead to perceived or actual unfairness in the treatment of students within universities and across the sector. The university carries out a public function and is therefore subject (in addition to its own regulations) to public law principles. In particular
  - the university must properly implement its own procedures,
  - the appellant must have the right to put his/her case before an unbiased decision maker,
  - the appellant must have proper notice of the allegations made and the procedures involved so that he/she can put their case (i.e. no surprises),
  - there must be a fair process and adequate reasons given for any decision; and
  - decisions must be reasonable with reference to the procedures and all relevant evidence including their impact on the appellant.
- Proportionality and consistency of outcomes: in so far as evidence of individual circumstances permits, there should be reasonable consistency within the university as to the proportionality of any decision to the case in question, and consistency of treatment both within the university as a whole and over time.

### **3.5 Further external constraints**

#### 3.5.1 The further significant external constraints are:

- The QAA Code of Practice, particularly the sections on Academic Appeals and Student Complaints, on Assessment and on Students with Disabilities. Formally, the Code is not legally binding, but it is taken into account by OIA when it makes adjudications, and a university deviating from it would need to justify itself in facing any appeal to OIA. This document assumes that all practitioners are familiar with the Code.
- The adjudications and recommendations of the OIA and published in its annual reports. These are of particular importance in risk avoidance.

## 4 Definitions

4.1 A guidance document intended to apply across the country cannot reflect the wide differences of institutional terminology. In particular the word *appeal* can apply to many different situations. Moreover, universities differ as to the number and types of stages within their various relevant procedures. This document uses its own terminology, consistent with that of the QAA, for the various stages, but without any intention that all of those stages should necessarily be included. The definitions used are as follows and universities are invited to adopt them.

### 4.2 Academic appeal

Universities should endorse the definition of academic appeals, as set out in Section 5 of the QAA's Code of Practice on Academic appeals and student complaints on academic matters, namely, that an academic appeal is *a request for a review of a decision of an academic body charged with decisions on student progression, assessment and awards*. Whether this will apply only to award-bearing courses is a matter for the university.

### 4.3 Review of an academic appeal decision

The use of the term *academic appeal* requires that, at some point, the process concludes with a final authoritative decision. Where a university permits an exceptional later review of such a decision (see 7.10.18 below) then the term used should be *Review of an academic appeal decision*.

### 4.4 Filtering stage

A stage in the process at which it is judged whether the appeal complies with the administrative (not the substantial) requirements of the regulations, for example, that it has been submitted in time, there are supporting documents, etc.

### 4.5 Preliminary stage

A stage in the process, either before or after submission of a formal appeal, at which efforts are made quickly by the body responsible for the original decision to determine whether a mistake has occurred (and if so to rectify it).

### 4.6 Administrative process

A means by which an appeal may be considered and a decision may be determined, on the basis of paper evidence alone, without the personal appearance of the appellant.

### 4.7 Academic appeal board

The academic appeal board is the *body charged with a detailed consideration of a student's academic appeal and with reaching a decision on it*. The appellant would normally have the right to attend the meeting of such a board and to present his/her case in person.

### 4.8 Extenuating circumstances

Extenuating circumstances are *circumstances, normally exceptional and outside the control of the student, which have prevented him/her from performing in assessment at the level expected or required of him/her*. Universities should provide a clear definition of what they mean by extenuating circumstances (see Section 6). They should include examples of circumstances they regard as extenuating, in the context of assessment.

(The word *mitigating* often used in this context has possible legal connotations relating to the act of making a plea for leniency against sanctions; students have also reported their unease with such terminology. The term *extenuating circumstances* is accurate and preferable.)

#### 4.9 **Examination board**

In this document, the term examination board has, for reasons of brevity, been used to cover all those bodies against whose decisions an academic appeal can properly be launched. These would also include fitness to practise panels, academic misconduct committees, and other relevant bodies.

## **5 Communications**

### **5.1 Communication with students**

5.1.1 The key principle is to make students aware of their responsibility to submit their claims for extenuating circumstances and/or to appeal, with supporting evidence, within certain deadlines and according to certain criteria. This reinforces the responsible approach that adults would need to adopt in any profession if unable to perform their work.

5.1.2 Universities should publish clear policy and guidance for staff dealing with extenuating circumstances. Where possible, there should be direct URL links to university policy and guidance so that, as and when regulations change, all staff may access the most current set of rules. Text in student handbooks or on the web pages should be minimal in order to limit the potential for incorrect/outdated advice from staff: direct links limit misinterpretation of regulations, policy and procedure. Text in student handbooks or on the web pages should be regularly reviewed and updated in order to limit the potential for incorrect/outdated advice.

5.1.3 These are some examples of where and how students and staff can locate information:

- *Student handbooks/Student charter/contract*
- *Induction periods*
- *Student portal/intranet*
- *University/department web pages*
- *Web CT/Blackboard*
- *Staff/student committees reminder*
- *Mass email before extenuating circumstances deadline e.g. June/September (NB some universities have more defined systems of deadlines e.g. for UGs three dates published at the start of the academic year by which submission of extenuating circumstances must be made.)*
- *Students' Union role to assist with informing students*
- *Start of each academic year email to each student*
- *Posters*
- *FAQs*

### **5.2 The role of ARC and practitioners**

5.2.1 Academic appeal and extenuating circumstance procedures need to be clearly understood by practitioners and students.

5.2.2 ARC will aim to create an online resource of sample institutional procedures and practices, and will offer practitioners a depository of good practice examples, including:

- different formats used to publish academic appeals and extenuating circumstances procedure;
- effective ways of reminding students of their rights and the expectations placed upon them;
- information about other related procedures e.g. complaints procedures, verification procedures
- student engagement with the university on managing academic appeals;
- academic appeal and extenuating circumstances forms;
- how to obtain advice and support.

5.2.3. The development of this resource will have involved students and will show how to engage students in the academic appeals processes (including assisting in the drafting of the procedures, involvement in considering academic appeals, membership of academic appeal/ extenuating circumstances committees or boards, input into annual reviews, etc).

5.2.4 By sharing information, the aim is to assist colleagues in providing students with clear policies on all aspects of extenuating circumstances and academic appeals; and to provide information and examples helpful in framing and reviewing policies and procedures.



## 6 Extenuating circumstances

### 6.1 Introduction

6.1.1 There appear to be inconsistent approaches to extenuating circumstances between and within many universities, and in some cases inappropriate handling of the extenuating circumstances process contributes to the escalation of student complaints and academic appeals.

6.1.2 It is important to distinguish three stages at which extenuating circumstances might be relevant:

- (a) when the examination board meets to determine a result;
- (b) when they are presented after the result has been determined;
- (c) when the student wishes to appeal against the decision of the board.

6.1.3 The circumstances in (a) are when the examination board has information by which it can make a decision at the proper time, and are considered in this Section. The circumstances in (b) and (c) are academic appeals and are properly considered as such (see the other Sections). Nevertheless there are certain common features.

### 6.2 Approach

6.2.1 The underlying purpose is to ensure that a student who has demonstrated extenuating circumstances is not unfairly disadvantaged thereby. Universities must be careful not to advantage disproportionately one student over others: there should be a level playing field.

6.2.2 The background context, legal framework and principles (see Section 3) inform the design and implementation of extenuating circumstances procedures in universities. Because of this the only way to ensure equity in handling extenuating circumstances is to keep the use of discretionary powers to a minimum and, as far as possible, avoid special pleading about the impact or otherwise of any extenuating circumstances upheld. Nevertheless, it is important that any procedure does not unduly fetter decision-makers' discretion to apply criteria with reasonable flexibility, based on the particular circumstances of a given case, as is required in the public law context and as is desirable in the light of established precedent.

6.2.3 The principles that should inform the design and implementation of a university's extenuating circumstances procedures affect:

- Definitions
- Procedures and processes
- Outcomes
- Implementation
- Accountability, monitoring and evaluation

6.2.4 The university should seek to make students aware of their responsibility to submit their extenuating circumstances and supporting evidence within certain criteria and deadlines.

### 6.3 Definitions

6.3.1 Each university should provide a clear definition of what it means by extenuating circumstances (see the definition in Section 4).

6.3.2 Universities should explain what are **likely** to be acceptable extenuating circumstances. The following is a non-exhaustive list of examples that a university would commonly regard as extenuating circumstances that could have seriously affected performance and could not have been remedied in the time available:

- Bereavement – death of close relative/significant other (of a nature which, in an employment context, would have led to an absence in accordance with the compassionate leave regulations)
- Serious short term illness or accident (of a nature which, in an employment context, would have led to an absence on sick leave)
- Evidence of a long term health condition worsening
- Significant adverse personal/family circumstances
- Other significant exceptional factors for which there is evidence of stress caused.

6.3.3 The list above allows universities to use their discretion based on the given facts of a particular case within a broad set of criteria.

6.3.4 Universities should also explain what is **unlikely** to be acceptable extenuating circumstances. The following is a **non-exhaustive** list of circumstances unlikely to be regarded as falling within the relevant definition and, where there is conflict with the above list, a decision will need to be made on each case:

- Alleged statement of a medical condition without reasonable evidence (medical or otherwise) to support it.
- Alleged medical circumstances outside the relevant assessment period or learning period for which appropriate adjustments for extenuating circumstances have already been made
- Alleged medical condition supported by ‘retrospective’ medical evidence – that is, evidence that is not (contemporaneous) in existence at the same time as the illness, e.g. a doctor’s note which states that the student was seen (after the illness occurred) and declared they had been ill previously.
- If there is a reasonable case that circumstances relied on were foreseeable or preventable.
- Long term health condition for which the student is already receiving reasonable or appropriate adjustments.
- Minor illness or ailment, which in a work situation would be unlikely to lead to absence from work.
- Holidays.
- Financial issues.
- Personal computer/printer problems.
- Poor practice e.g. no back up of electronic documents.
- Claims that students were unaware of the dates or times of submission or examination.
- Late disclosure of circumstances on the basis that students ‘felt unable - did not feel comfortable’ confiding in a staff member about their extenuating circumstances.
- Poor time management.

## 6.4 Procedure and processes

6.4.1 Universities need to make sure within their regulations that students are not penalised by the length of the process (timing of referrals/deferrals) when raising extenuating circumstances throughout the academic year.

6.4.2 Universities should make it clear that, unless circumstances do not permit, all claims for extenuating circumstances should be presented to a named person in good time for them to be considered by the appropriate body. If students do not do so then they will be considered as declaring themselves ‘fit to sit’ the assessment concerned; any later claim will have to be considered as an academic appeal under other Sections of this document. Where a student has already passed the assessment, some universities would not permit reopening the matter, and such a policy needs to be reviewed in the light of the advice in this document.

6.4.3 Universities should provide clear written explanation, policy and/or guidance for students if they wish to submit extenuating circumstances in relation to any assessment. Such guidance could comprise:

- One clear, structured form that includes reference to time limits, definition, examples, processes and possible outcomes. [Links to examples may be supplied by ARC members on request.]

- What supporting evidence might be acceptable.
- Clear dates, where possible standardised deadlines, and the exact name of the point to which students should submit their claim and evidence. Time periods should be reasonable to leave some discretion for the university if there is a risk that it will be unable to keep to the deadline. In all cases the student should be kept informed in the event of delays.
- Where there are reasonable grounds, universities should, exceptionally, consider using their discretion in accepting late submissions of extenuating circumstances (though after an examination board has made its decision, these will normally have to be treated as academic appeals).
- If the student chooses not to submit a claim for extenuating circumstances by the published deadline, they should accept the consequences of their actions.

6.4.4 Universities should provide a clear explanation or guidance on commonly accepted evidence and how to submit that evidence.

6.4.5 The evidence should normally be independent third party evidence, but there may be occasions when the university wishes to use its discretion in relation to the type of evidence it will accept. Where evidence *can* be provided it *should* be provided, but there may be exceptional cases where, for a variety of confidential reasons (e.g. sensitive personal data), this is not possible.

6.4.6 A non-exhaustive list of examples of commonly accepted evidence would include:

- Death certificate.
- Medical/health certificate (with relevant date to the assessment). Some university GP systems have a specific form linked to grading extenuating circumstances.
- Letter of support/explanation from a support service in the university, e.g. Disability Service.
- Letter of support/explanation from third party.

6.4.7 Where universities permit the acceptance of self-certification then clear rules and limits should be established. Universities may wish to consider whether self-certification is acceptable both for extension of time and for extenuating circumstances.

## 6.5 Implementation

6.5.1 Communication with students should follow the lines proposed in Section 5.

6.5.2 Some universities refer cases direct to the appropriate examination board. Others have a separate body, an Extenuating Circumstances Panel that is separate from the examination board so that it can ensure evident independence of decision-making.

6.5.3 The implementation of procedures will depend on the university's structure but the procedures should respect the following points:

- Where a panel is used, the university should formally agree its role, terms of reference and membership (including guidance on minimum membership and conditions of membership to avoid conflict with the fairness of the process). This panel may be a subgroup of the examination board. In any case there should be at least one member common to both. (see 7.10 for advice on independent membership and conduct.)
- The university should agree the timing of the process, from the submission of the claim and evidence to the decision on it, in relation to the schedule for the examination board concerned.
- The confidentiality of the process should be respected, particularly if (as will often be the case) the claim depends on data that is sensitive and personal under the DPA.
- Those making the decision should review the type of evidence and the timeframe to which it applies. They must act in accordance with regulations and be reasonable.
- The decision should be either to accept or to reject extenuating circumstances and, if to accept, then to suggest an appropriate outcome or remedy. It would be useful to have

clear standardised definitions to assist decision-making and to ensure consistency across the university.

- If the decision is made separately from the examination board the panel should convey its decision and recommendation to that board.
- The examination board should determine the final outcome from the options available to the university. The board should not revisit the issue of whether extenuating circumstances exist as this should have been decided at the earlier stage.
- The decision-making process should be as objective as possible and should seek to minimise the number of subjective judgements made. Some universities do not attempt to grade the significance of the circumstance as major or minor: they offer a straightforward deferral opportunity based on whether the circumstances are accepted or not.
- Those universities that do grade the significance of the circumstances should make sure they limit the number of grading options in order to minimise subjective judgement.
- All panels, committees and boards should minute the reasons for their decisions in order to provide full justification and adequate reasons to both the students and other staff and to any external agencies such as the OIA.
- There should be a clear and agreed policy as to how and when to inform the student of the decision taken by a panel, following the student submission. Students must be clearly and properly informed of the decision in writing.
- The existence of the DDA may create expectations of special treatment among students, and its requirements must be respected. This is potentially a difficult area and precedents should be noted and used where relevant.
- Independence of judgment of those involved in considering extenuating circumstances, Members sitting on such panels should declare any circumstances which could lead to a perception of bias.

6.5.5 Discretion needs to be applied consistently across the university. Common panel membership would encourage it. It would also be useful to have training for chairs of panels to ensure consistency in the decision making process, as there might be subsequent allegations of bias.

6.5.6 Students will need to be reminded more than once of the rules, timetable and procedures, and communication could be by any or all of the means suggested in Section 5.

6.5.7 In this area, as in academic appeals, the university needs to be able to demonstrate that it has done all that is reasonable to bring extenuating circumstances procedures and requirements to the attention of its students and to provide an audit trail .

## **6.6 Outcomes**

6.6.1 It is important that the regulations set out clearly what procedure is to be followed: which committee, when etc. The procedure can then be supported by additional policy guidance to staff and students on implementation.

6.6.2 Universities should be clear as to the range of possible outcomes after the presentation of evidence of extenuating circumstances.

6.6.3 These are among the possible outcomes for all students:

- Deferral opportunity (assessment marked as if it is a first attempt and is not capped at the pass mark)
- Referral/resit opportunity (assessment marked for a capped mark, normally 40% if this is the lowest pass mark; however, some subjects may vary, e.g. Medicine.)
- Compensation depending on the nature of the failure in one or more assessments (e.g. 35 – 39% may be compensated). This does not result in the actual adjustment of the mark.
- Proceed with less than the usual number of credits to the next year (e.g. 20 credits short), to be redeemed during that year. Universities may here wish to distinguish between core and optional modules/assessments.
- Universities may wish to select a remedy based on how they have adjudged the significance of the circumstances: however, it is useful to limit the amount of subjectivity in this process.

- A different form of re-assessment may be designed so that the learning outcomes can still be met.
- Some universities take the view that deferral/resit is the only equitable remedy in a criterion-based procedure.

6.6.4 In addition, these are among the possible outcomes for students in their **final** year of study:

- Condone the failure in modules attracting limited credit weighting (20 credits), e.g. the student will attain 340 credits instead of 360 credits but will still graduate. It would be possible, and might avoid complications arising from the diploma supplement, to award the credits but to keep the original mark, as with compensation arrangements generally.
- Set aside a specific assessment(s) provided the learning outcomes have been attained in order to compute the aggregate and therefore review the degree classification.
- Review borderline degree classifications.

6.6.5 The options above do not involve the university in changing an individual student's mark. It is the general view that this practice should be avoided as it is hard to judge the additional marks needed to compensate for the individual's extenuating circumstances.

## **6.7 Accountability/Monitoring/Evaluation**

6.7.1 These are matters that need regular attention:

- The policies and procedures for considering extenuating circumstances, ensuring and promoting a consistency of approach.
- The means by which students are informed of what is expected of them and what procedures are in force.
- The agreed policy of how confidential information and related decisions will be kept.
- Evidence to monitor and evaluate outcomes across different social and ethnic groups and subjects/disciplines/schools in order to assess and evaluate trends and to assess how far consistency for all students across the whole university is being achieved.
- The agreed reporting process so that the university can monitor and assess/evaluate the impact of various outcomes/remedies and learns from the issues raised.



## **7 The academic appeal process**

### **7.1 Introduction**

7.1.1 This section deals with the stages of the academic appeal process, including evidence and the conduct of the appeal. It would be an extremely challenging task to recommend a common approach to managing academic appeals that would be applicable and acceptable to the sector as a whole. However, there are useful guidelines that are suggested to practitioners below.

7.1.2 Generally, universities do not have a standard approach for considering academic appeals. Some universities prefer a model with functions delegated to schools, and others centralise such functions. This distinction is more apparent at the initial stages through which an assessment and scrutiny of an academic appeal takes place. Some universities include a filtering stage of an academic appeal, through which appeals, which have not met the necessary requirements, can be rejected and this function is quite often delegated to schools/faculties.

7.1.3 In considering the question of centralisation one should note that:

- centralised systems ensure fairness, 'critical distance', and a more standardised approach and independence of judgment, particularly at the highest level of the academic appeals process. It is possible, however, that a centralised approach carries resource implications and might take longer
- the practice of delegating powers to schools or faculties for dealing with academic appeals brings with it the risk of divergent practices and the danger that students may perceive that their appeal might not be dealt with independently at school/department/college level

### **7.2 Stages within an academic appeal process**

7.2.1 There is no standard approach to the number or types of stages within academic appeals processes, but the Group suggests there should be no more than 3 stages. In response to the establishment of the OIA some universities introduced additional stages before a Completion of Procedures letter could be issued, but it is important to avoid procedures that could become over-complicated and cause unacceptable delays within the process.

7.2.2 Academic appeals processes can be very lengthy, and this is to be avoided wherever possible. A speedy process is best because most universities have summer resits, many students are away (often abroad) after the end of the term, and the summer is sometimes a difficult time in which to maintain contact with relevant academic staff. Universities should consider restricting their academic appeals processes to two or three stages, including a filtering stage and any faculty/school's involvement in the process.

### **7.3 Deadlines**

7.3.1 Variations among universities influence the timing of deadlines. For example, some universities do not allow re-sit examinations, some process academic appeals administratively, whereas in others students have the right to attend appeal hearings. Whatever deadlines are set, various work pressures on staff and students, as well as the need for students to provide evidence, can cause delays, and this needs to be recognised.

7.3.2 Irrespective of these variations, the deadlines to be adopted remain of critical importance, not only for those concerned, but also for the robustness of the university's procedures in the face of a review of the decisions of the academic appeal, and for the various outcomes available to a successful student, for example, a resit. Each university will need to reflect on its own approach, possibly distinguishing between progression and classification cases, and set deadlines as appropriate. However, it is reasonable to include in this document some basic deadlines, while emphasising that it remains open to each university to adapt them to accord with its local procedures.

7.3.3 An appropriate deadline for students to appeal would be one month from the date of the notification of the decision against which the student is appealing. Within the one month deadline, universities might wish to set a deadline of, say, two weeks, within which students must register

their intention to appeal. It would be necessary to specify the nature of the notification so that the deadline can be properly defined (e.g. 'at the end of fourteen days after the end of the day on which the email giving the result was sent to the student').

7.3.4 Students must gather evidence within the one month deadline, would be available for students to gather evidence and to prepare the academic appeal. A combined timeframe of four weeks would be sufficient and reasonable for overseas students to **submit academic appeals** against decisions that might affect their right to remain in the country. If such students failed to appeal within a month, the university could assume that the decision/mark had been accepted by the student and take appropriate action, e.g. close a student's record and where necessary submit a report to the UK Border Agency. In the case of international students, reference to the regulations in force at the time of the academic appeal should be made.

7.3.5 Where the case is particularly complex, or where other factors might affect the ability of the university to observe a deadline, then the student should be informed accordingly. In any case the university and the student should aim to complete all stages of an academic appeal within a reasonable time, and the maximum should not normally exceed **four months**. However, any delays on the part of the university should not result in the academic appeal being automatically granted.

7.3.6 In summary, universities should consider adopting the following guidelines:

- a deadline of two weeks from the date of the relevant decision for recording an intention to appeal
- if necessary, up to a further two weeks for the student to prepare the submission of the detailed academic appeal, thereby setting an overall normal time limit for the submission of an academic appeal to one month
- a normal maximum time limit of four months for universities to complete the hearing of any academic appeal.

#### 7.4 **The decision appealed against**

7.4.1 It should be made clear to students against which decisions they can appeal, and the names of the boards responsible for taking such decisions.. The decision should be that of an "examination board" and, where there is a hierarchy of boards, it should be the latest decision and most relevant decision. against which a student should appeal.

7.4.2 A number of decisions qualify, among them:

- the giving of a mark or grade or class. (For continuous assessment, either formative or summative, a mark given to a student will not be formally determined until the board has met; some universities have interim board meetings.)
- where the board exercises discretion over the student's future course of action, for example that a further attempt at an examination should not be allowed, or a resit normally allowed should be forbidden.
- where late or new or additional evidence of exceptional circumstances has been presented after the examination board but before the academic appeal deadline. In this case universities must make clear who is to decide whether the reasons for lateness are acceptable, again with independence of judgment in mind. Universities should agree on the weight, if any, to be placed on cultural and other individual factors affecting the student in making their decision.

#### 7.5 **Grounds and evidence**

##### *Grounds*

7.5.1 There must be some grounds for the academic appeal: it is not good enough simply to contest the judgment of the examiners. This should of course have already been made clear to students. The grounds for an academic appeal are similar across universities, particularly at the early stage of an appeal. These normally include extenuating circumstances not previously disclosed, computational or administrative errors (sometimes dealt with under a separate process,

namely Verification of Results), procedural defects in the conduct of an examination, prejudice or bias, etc.

7.5.2 There remains an argument whether complaints about poor teaching or supervision should be a valid ground for an academic appeal, or whether such claims ought to be considered only through the student complaints procedure. This has to be determined by each university. Some universities which include poor teaching or supervision as a ground for appeal do so only if the student has previously raised concerns, before the assessment has been completed. The regulations should make it clear as whether an academic appeal may or may not be based on allegations of defective teaching or supervision, or whether these should be brought under another procedure, and at an earlier stage. If the former, then the timing and the relationship, if any, to the academic appeals process need to be carefully set out.

#### *Admissibility of written evidence*

7.5.3 Practice and where possible the regulations should respect the rules on allowing or disallowing certain evidence. The principle of fairness must be followed but due care should be taken against vexatious behaviour likely to cause delays without adding to or changing the facts of the matter. For example, documents signed under proved duress should not be admitted; evidence tabled at a meeting should not normally be admitted unless the regulations permit it or are unclear on the matter or unless there are good reasons for its lateness. Where there is substantial doubt legal advice should be sought. After the deadline for submitting evidence the appellant should not normally be allowed to produce further evidence except orally when questioned. Normally students should be allowed access to any information considered by any academic appeals body that relates to the academic appeal.

### **7.6 The receipt of an academic appeal**

7.6.1 It should be made clear, in writing, available to students and communicated to them both through positive communications and through their enquiries, what the receiving point for an academic appeal is. Students do make mistakes and, in principle, an academic appeal addressed to the wrong person or office should not thereby be invalidated.

7.6.2 The first step, on receipt, is normally to check that the academic appeal has been received in time, that it is clear what is being appealed against (that is, what part of assessment and what aspect of the result given) and that the student can be easily identified. The appeal should be formally acknowledged and the appropriate regulations and procedures sent to the student (or their electronic location pointed out) so that there can be no doubt that he/she is in possession of them. He/she should also be sent the likely timetable of academic appeal events and given a deadline for any further evidence which should arrive before the filtering stage.

### **7.7 A filtering stage**

7.7.1 It is very useful to have a filtering stage within the academic appeals process. This comprises a mechanism for permitting only those academic appeal applications to proceed which meet the requirements set out in the academic appeals procedure. Normally, decisions under this stage are taken on an administrative basis, and students are not entitled to make representations either personally or through a friend. This stage should not include an assessment of whether the grounds for appeal are good or not. Institutions are invited to consider the advantages of a filtering system and to determine whether or not it would be appropriate for their own needs. Some universities have a procedure for allowing students to amplify their grounds before the final decision is taken, where the information already supplied appears to be inadequate.

7.7.2 The grounds for summary rejection must be limited. They could include, for example, that the appeal had been received too late or that an appellant's marks had indeed been calculated correctly (after due enquiry). Even in a centralised system this role could be assigned to the school, faculty or department, although this carries the risk that there might be a perception of insufficient independence from the original decision-makers.

7.7.3 The individual or committee must be independent of the decision originally made, in accordance with the suggestions in Section 7.11. Natural justice suggests that there should be some means for the student to contest a filtering decision. Again, this will vary between universities. A simple course of action would be to let the appeal proceed after advice to the student as to his/her prospects of success, but some universities give the Academic Registrar or another officer the role of determining a request to review the outcome of the filtering mechanism .

## 7.8 A preliminary stage

7.8.1 Just as a filtering stage will normally prevent purported academic appeals being processed further when they do not comply with the regulations and procedures, so a preliminary stage can allow mistakes to be remedied promptly and fairly without invoking the full formal stages discussed in later paragraphs. The preliminary stage can take place either before or after a formal appeal has been lodged.

7.8.1 Those universities that have a preliminary stage use varying forms of it, and it can include a verification stage in which mark calculations are checked. Essentially, it is an opportunity for the examination or other board concerned to consider whether it should review its decision in the light of the evidence presented by the student. Sometimes this might be by chair's action and sometimes by the full board, and clearly normal rules should apply (for example, those requiring the involvement of external examiners and who might properly be present at any discussion).

7.8.2 The outcomes of the preliminary stage might be:

- (a) acknowledging that there were errors and possibly changing the original decision in favour of the student, or
- (b) maintaining the original decision, in which case the student may accept the position or decide to proceed with a formal academic appeal. If the latter, then the evidence before the appeals board would include anything arising from the preliminary stage,

## 7.9 Scope of the process

7.9.1 Legal advice suggests that there is no legal requirement on a university to allow the appellant to attend a meeting at which his/her academic appeal would be considered. Universities can therefore determine whether academic appeals would be considered administratively or referred to an appeal board at which a student would have the right to attend and present the case in person. However, the OIA or other relevant bodies would expect a university to build into its academic appeals procedures a provision whereby an academic appeal board could be established even though most academic appeals would be processed on paper-based evidence. It also noted that the NUS in its report had recommended that: "...students should be given the option of presenting their case in person if they want and also to have support from a friend or students' union representative if requested".

7.9.2 This is an issue that has two sides. The recommendations of the NUS could have been based on a false perception that the system would be fairer if students could present their own cases. A counter argument would be that paper-based systems are less emotionally charged and do not rely on the presentation skills of individual students, particularly if their first language is not English. On the other hand, if the appeal went to OIA, the fact that the student had appeared in person could be a factor in the university's defence.

## 7.10 Administrative process

7.10.1 It is important that universities should decide whether their own system should be primarily an administrative-based process or a system that gives students the right to attend hearings. In the former, a committee is charged with conducting a detailed consideration of a student's academic appeal and is expected to conduct its business based solely on paper or documentary evidence. In this way, a large number of cases can be cleared very quickly and it reduces the number of any claims that those students who are better-placed than others to attend hearings (particularly outside term-time) are disadvantaged. Obviously, the membership and conduct of

such a committee must accord with the principles described below in connection with a final academic appeals board, except for the matter of student attendance.

7.10.2 If the administrative process is to be used, then the university might consider whether it would be advisable to obtain the student's consent for his/her appeal to be heard under it. In other words, for him/her to forgo the possibility of personal attendance. The implications might need to be spelled out, including potential delays.

#### **7.11 The academic appeals board**

7.11.1 Whichever committee considers a student's academic appeal, important issues of membership, behaviour and outcomes must be addressed by the university.

##### *Membership*

7.11.2 Members must be free of suspicion of any connection with or antagonism towards the appellant. If the appellant claims bias against him/her by someone else, then the members must be similarly free of connection with or antagonism to that other person. Only by exercising care in this matter can the requirement of independence be assured.

7.11.3 Having a student as a member would be consistent with the idea that the university and the students' union should try to act in harmony in this area. An SU officer would be the usual choice, and that person would be bound by the same rule of distance as the other members.

7.11.4 Some universities would automatically try to ensure that there was a balance of gender (or other factors) among the membership. Whether this is so or not, there may be cases where the process is less liable to challenge if one particular group does not constitute the whole membership.

7.11.5 Some universities would also include in membership someone with specific knowledge of the area concerned, for example where fitness to practise might be involved or where disability was an issue. However, such people could of course be called as witnesses.

##### *Student Presence*

#### 7.11.6

If the procedures allow a student to attend a meeting at which his/her academic appeal is to be considered, then s/he should be asked to attend in person. Having the appellant present allows the board to understand his/her position, particularly where extenuating circumstances are claimed; it exhibits openness so that the appellant is directly faced with the discussion and knows why the decision has been made. An appellant might ask for a representative to attend in his/her place. The procedures should make plain whether this is allowed. Our advice is to reject it: the board will want to hear the student in person and to ask him/her questions that another person might not be able to answer, or to answer in full knowledge of the circumstances. However, failure to attend in person (after reasonable notice) should not invalidate the proceedings or count against the appellant.

7.11.7 We advise that students should be allowed to be accompanied, normally by a member of staff, a student adviser (Students' Union) or a fellow student; it is, however, difficult to prevent a legal representative appearing, and the name and status of any companion ought to be known in advance. Any restrictions imposed by universities should be clearly stated in the academic appeals procedures, e.g. legal representation.

7.11.8 The intention is to enable universities to share examples of good practice on wording to be included in procedures relating to the rights of students to be accompanied at academic appeal boards, through the ARC web pages.

##### *Conduct*

7.11.9 Notice of the meeting should be given according to regulation, to all members and to those invited to attend. Whether the appellant can be accompanied by a friend, and whether that friend

might be a legal representative, should be stated: those with experience know the cost and difficulty engendered by having a legal representative present.

7.11.10 The board must proceed by rules. It must be properly established, by regulation or some higher authority, and its membership, including its chair, must be determined accordingly. Whether there is a quorum must be clear, and if so what it is. It may be necessary to specify the powers of the chair. The meeting must be properly serviced, including minutes/notes available in the interests of transparency to the board members and to the appellant.

7.11.11 It must be clear for any body hearing an academic appeal

- (a) whether the grounds for appeal must be established beyond reasonable doubt or on the balance of probabilities;
- (b) whether the body concerned will proceed to a decision on the basis of a simple majority, an adjusted majority (e.g. two-thirds) or unanimity;
- (c) how absent members are treated in the matter of voting;
- (d) whether the chair has a casting vote; and
- (e) who is entitled to be present in the final discussion and voting.

7.11.12 The minutes/notes of the board and the record of the formal decision might not be public documents (that is, available on request) because of DPA restrictions, but they should seek to avoid any pejorative judgments to which a reader might take personal objection.

#### *Outcomes*

7.11.13 Regulations should make it clear what powers the academic appeal body has other than (presumably) to reject the appeal. Where it allows it,

- (a) does it refer it back to the examination board for action, with a statement of the facts as found? If so, regulations must specify whether the examination board is obliged to accept those facts. Or,
- (b) does it report it to the Senate or another senior committee (or equivalent)? This risks delay, but such committees usually have provision whereby officers might be granted executive authority to take quick decisions. Overruling an examination board, however, is not something done lightly, especially when a particular grade or mark is to be assigned and where the approval of an external examiner is normally expected. Or,
- (c) does it make the decision itself? This would seem to infringe the principle of academic judgment - that those with the appropriate knowledge and experience of the subject must be the only people who can return a justifiable mark.

7.11.14 The decision must be promptly reported to the appellant and to the chair of the examination board concerned. Where an academic appeal is rejected, the way is clear for the student to be reminded of any internal procedures for reviewing the decisions, and of the role of the OIA by means of a Completion of Procedures Letter.

7.11.15 The decision of an academic appeal board will normally complete the internal procedures for the hearing of the appeal, and can be contested only by recourse to the OIA. Nevertheless some universities may wish to institute a procedure whereby a student might request a review of the academic appeal decision on the basis of very limited grounds. These should be confined to major procedural irregularities such as lack of independence of judgment in the proceedings of the academic appeal board. High authority would be needed to institute such a procedure.

7.11.16 It will be for each university to determine whether reasonable expenses can be paid for those attending to give evidence.

## **7.12 Records**

7.12.1 It is essential that full records are kept, at all stages of the process; of interactions with all those in any way involved; of the evidence given orally as well as in writing; and of the discussion leading to the decision. Such records will help explain decisions to students and will greatly minimise the risk of an adverse judgment by OIA or relevant body

7.12.2 Particular attention should be given to the means by which sensitive personal data or other confidential information should be kept.

7.12.3 Institutions should reflect upon the legal requirement to retain records, in particular, a student's right to sue under the laws of contract. It is suggested that 7 years would be appropriate.



## **8 Review and improvement**

8.1 Most universities review their institutional procedures on a regular basis, driven by the need to respond to internal changes and national developments, but also influenced by the desire to enhance the students' experience. There are many ways of doing this, always engaging with academic schools/faculties and with student bodies. They range from a full review of procedures, involving staff and students' union officers, to annual reports to committees on the outcomes of academic appeals. Some universities hold awareness sessions for representatives from schools, which include workshops on fictitious academic appeals, aimed at avoiding poor practice.

8.2 It would be good practice to monitor and evaluate outcomes of academic appeals, referring to statistical data, on an annual basis, and to involve the student body in such exercises. The statistical data should include the results for different groups (e.g. ethnic, social, gender). By this means institutional errors may be identified and corrected and a greater consistency of approach and institutional learning achieved throughout the university.

8.3 Reference to OIA judgements and good practice elsewhere should be encouraged during such annual evaluation exercises. Furthermore, universities might conduct full quinquennial reviews of procedures. It may also be wise to include training sessions on a regular basis, involving those who play significant roles in academic appeals procedures and generally with assessment issues in schools/faculties.



## Members of the task groups

### *Extenuating circumstances*

Neil Abel	University of Exeter
Stephanie Bates	Staffordshire University
Hilary Gilbert	University of Brighton
Jackie Harris	University of Birmingham
Carl Hornsey	Westminster University
Lisa Isted	University of Bath
Huw Landeg Morris	Swansea University
Janet Pugh (Chair)	University of Southampton
Iain Rowan	University of Sunderland
Julian Sladdin	Pinsent Masons LLP
Bernadette Stratford	Swansea University
Andy Taylor	Birmingham City University

### *Academic appeals*

Mandi Barron	Bournemouth University
Rosemary Dixon	Middlesex University
Maggi Donnelly	Newcastle University
Ushma Gudka	Brunel
Huw Landeg Morris (Chair)	Swansea University
Trevor Pearce	Birkbeck College
Mark Thomson	London School of Economics
Helen Vahramian	Manchester Metropolitan University
Margaret Whittington	University of the West of England
Erica Young	Durham University