

## Part 4: Assessment boards for taught courses

### Section 16: Academic Appeals

#### Introduction, Scope and Purpose

- 16.1 An Assessment Board derives its authority from Academic Council and is the only body that can make decisions concerning:
- module marks and results for students, including any requirements for reassessment
  - the academic progression of students
  - the expulsion of students for academic failure
  - the conferment of awards
- It makes such decisions in accordance with the requirements of the Frameworks for undergraduate and postgraduate taught courses (Sections 17 and 18 of the academic regulations).
- 16.2 The decisions of an Assessment Board can only be set aside in exceptional circumstances (see regulation 16.27). A decision of an Assessment Board may only be modified by that Assessment Board, including by the Chair of the Board acting on behalf of the Board, or by a superior Board.
- 16.3 An academic appeal is a representation against a decision of an Assessment Board in respect of an assessment outcome for an individual student. The purpose of these regulations is to provide a framework within which a student may seek to challenge that decision of an Assessment Board in respect of that student's assessment, in order to protect against potential unfairness resulting from omission or error on the part of the University. The regulations are intended to provide an opportunity to remedy material disadvantage to a student.
- 16.4 No student appealing under these regulations, whether successfully or otherwise, shall be treated less favourably than would have been the case had an appeal not been made.
- 16.5 If a student wishes to present a complaint about the University, its courses or services or the individuals concerned in their delivery, the *Student Complaints Procedure* should be used. Where a student submits an academic appeal against a decision of an Assessment Board in accordance with these regulations which, in the opinion of the Academic Standards Manager, requires an investigation which falls outside the remit of the Assessment Board and which constitutes a complaint under the provisions of the *Student Complaints Procedure*, then the matter shall be referred for consideration under the *Student Complaints Procedure*. The academic appeal shall be held in abeyance until the consideration of the matter under the *Student Complaints Procedure* has been concluded. The Academic Standards Manager shall notify the student accordingly, normally within 5 working days of receipt of the academic appeal. The findings of the Student Complaint investigation will then inform the consideration of the academic appeal.
- 16.6 The University's policies on the assessment of students, the role of external examiners and other related matters are published separately.
- 16.7 These Regulations do not cover complaints or academic appeals against matters which have already or are currently being considered by the Office of the Independent Adjudicator for Higher Education (OIA), a court, or a tribunal.
- 16.8 The University reserves the right to terminate the academic appeals process at any time if it judges that the appeal is vexatious or frivolous. This decision will be made by the Deputy Vice-Chancellor (Student Engagement) on the advice of the Academic Registrar. Any student submitting fraudulent documentation in support of their appeal or who submits an appeal that

is fraudulent in any other way will be subject to the provisions of the University's Student Disciplinary Regulations or Academic Misconduct Regulations, as appropriate.

- 16.9 As academic appeals are always related to individual assessment outcomes, it is unusual for students to submit collective appeals. However, the University recognises that there may be exceptional circumstances where the issues raised affect a number of students and therefore those students may wish to lodge a collective appeal. In these cases, each student is expected to show how they have personally been affected by the situation. In certain instances, a nominated individual may be required to act as spokesperson for those students who are making the collective appeal.
- 16.10 An academic appeal may only be submitted by the student whose assessment decision is being challenged – a third party may not submit an academic appeal on behalf of a student.
- 16.11 The University will not consider academic appeals which are made anonymously, nor will it consider requests made by appellants for appeals to be considered anonymously.
- 16.12 Student expenses for making an appeal will not be reimbursed by the University, regardless of the subsequent outcome.
- 16.13 The University undertakes to treat all appeals with confidentiality. Disclosure of evidence will be restricted to those parties involved in the review process.
- 16.14 The University is committed to complying fully with the Data Protection Act 1998 in its handling of personal data.

## Definitions

- 16.15 An '*Academic Appeal*' is defined as a request for a review of a decision of an Assessment Board charged with decisions on student progress, assessment and awards. This includes challenges to the outcomes of the mitigating circumstances process.
- 16.16 A '*complaint*' is any expression of dissatisfaction with the standard of service provided by the University or its agents, or with the actions or lack of actions by the University, its agents, or members of staff. The relevant procedure for dealing with complaints of this nature is the [Student Complaints Procedure, which includes a fuller definition of a complaint](#).
- 16.17 A '*Student*' is any person pursuing a taught undergraduate or postgraduate course, module or programme of study offered by the University which leads to an award of or the award of credit by, the University. This includes students enrolled with a collaborative partner on a course validated by the University, unless otherwise stated in the partnership agreement and agreed at the point of validation. Separate Academic Appeals procedures exist for students on [Research Degrees](#).
- 16.18 An '*Assessment Board*' is the formal body constituted in accordance with the provisions of Section 14 of the academic regulations for the purpose of, *inter alia*, making decisions concerning student assessment, progression and awards.
- 16.19 '*Mitigating Circumstances*' are defined for the purposes of assessment as circumstances of a serious nature, usually sudden or unforeseen, that occurred during or immediately before a specific item or period of assessment, and which had an adverse impact on the student's performance. Section 11 of the academic regulations gives a fuller description of Mitigating Circumstances.
- 16.20 '*Academic Judgement*' is a judgement that is made about a matter where only the opinion of an academic expert will suffice, for example a judgement about assessment, a degree classification, fitness to practise, research methodology or course content/outcomes will normally be academic judgement. However, the fairness of procedures, the facts of the case, misrepresentation, the manner of communication, bias, an opinion expressed outside the area

of competence, the way evidence is considered and maladministration in relation to these matters are all issues where academic judgement is not involved.

- 16.21 *'Material irregularity'* means the University has not acted in accordance with its own regulations or procedures, or has not acted with procedural fairness, and that this failing on the part of the University is so significant that it has had a material impact on the outcome. I.e. had it not been for this failing the outcome would probably have been substantively different.
- 16.22 References to the *'Academic Standards Manager'* include his/her nominees who are working under his/her authority, or other appropriate officer nominated by the Academic Registrar.
- 16.23 The *'assessment process'* includes all aspects of assessment, including the application of assessment regulations, compliance with assessment requirements, calculation of marks and outcomes, and the conduct of the Assessment Board.

### Accompaniment and Representation

- 16.24 A student should seek advice from UWSU ("University of Westminster Students' Union") before making an academic appeal. Advice on the procedure may also be sought from the Academic Standards Manager and the student's Campus Registry.
- 16.25 Students invited to attend an appeal hearing may be accompanied by an officer or staff member of UWSU, a currently enrolled student of the University, or a member of University staff, who may make representations on behalf of the student.
- 16.26 Legal representation will not be permitted at appeal hearings.

### Grounds for an appeal

- 16.27 A decision of an Assessment Board may only be modified where one or both of the following criteria (the grounds) have been demonstrated to the satisfaction of the body considering the appeal:
- a) that there has been a material irregularity in the assessment process;
  - b) that there has been a material irregularity in the conduct of the Mitigating Circumstances process

Students wishing to appeal using ground b) (noted above) are advised to read Section 11 of the Academic Regulations, Mitigating Circumstances, prior to submitting an appeal.

- 16.28 Academic appeals which seek to challenge the academic judgement of the Assessment Board will not be considered, and therefore matters of academic judgement will not be grounds for an academic appeal.
- 16.29 Mitigating circumstances will not be considered as grounds for an academic appeal. Any student wishing to have mitigating circumstances considered in respect of an assessment following the decision of an Assessment Board on that assessment should refer to the University's Mitigating Circumstances Regulations (Section 11 of the Academic Regulations).
- 16.30 Students should seek advice from UWSU, before submitting an appeal. Further details are available from the [Students Union](#).

### Procedure

#### STAGE 1: Initial Consideration

- 16.31 All academic appeals must be made within **15 working days of the publication of the decision which is being appealed** using the academic appeal form accessible via e:Vision

and submitted to the Academic Standards Manager. All evidence must be provided at the time the appeal is submitted.

- 16.32 An academic appeal submitted after this deadline may, exceptionally, be admitted at the discretion of the Academic Standards Manager where the student can provide good reason, to the satisfaction of the Academic Standards manager, for its late submission.
- 16.33 The appeal request will be acknowledged normally within **5 working days** of its receipt.
- 16.34 The Academic Standards Manager shall review the appeal request and make one of the following determinations:
- i. That the appeal provides evidence of permissible grounds, as stated above, in which case the appeal shall move to Stage 2.
  - ii. That the appeal does not provide evidence of permissible grounds, as stated above, in which case the Academic Standards Manager will advise the student in writing of this finding, **within 20 working days** of receipt of the appeal, and that the appeal will not be further considered.
- 16.35 The Academic Standards Manager will write to the student to notify him/her of this determination normally **within 20 working days** of receipt of the appeal.
- 16.36 Where the student is dissatisfied with a determination that the appeal does not provide evidence of permissible grounds, s/he may, **within 5 working days** of the notification letter, request the Deputy Registrar (Quality and Standards) to review this decision.
- 16.37 On receipt of such a request, the Deputy Registrar (Quality and Standards) will review this decision and, normally **within 15 working days** of receipt of the request, will advise the student in writing of his/her determination.
- 16.38 Where the Deputy Registrar (Quality and Standards) confirms the Academic Standards Manager's determination that the appeal does not provide evidence of permissible grounds, or where the student does not request a review of the decision of the Academic Standards Manager's decision within the five working days, this will constitute the completion of the University's procedures in this matter.
- 16.39 Where the Deputy Registrar (Quality and Standards) determines that the appeal does provide evidence of permissible grounds, the appeal shall move to Stage 2.

## **STAGE 2: Consideration by the Assessment Board**

- 16.40 Where it is determined, either by the Academic Standards Manager or, following a request for a review by the Deputy Registrar (Quality and Standards) that the appeal shall progress to Stage 2, the Academic Standards Manager will investigate all of the relevant issues detailed in the appeal. The Academic Standards Manager will normally complete this investigation **within 20 working days** of receipt of the appeal, or within 20 working days of the conclusion of the review of the Deputy Registrar (Quality and Standards).
- 16.41 Upon the completion of these investigations, the Academic Standards Manager will:
- 16.41.1 in the case of an appeal based on grounds of material irregularity in the assessment process (paragraph 16.27 a) above), report his/her findings in writing to the Chair of the Assessment Board whose decision is being appealed. The Chair of the Assessment Board shall consider these findings on behalf of the Assessment Board, and where appropriate should liaise with and seek views and opinions from relevant academic and other staff. The Chair shall, on behalf of the Assessment Board, reach one of the following determinations:

- a) that a material irregularity in the assessment process did occur and that, had it not been for that irregularity, the original decision of the Assessment Board would have been different. In such cases the Chair shall uphold the appeal and modify the Board's original decision as appropriate; or
- b) that a material irregularity in the assessment process did occur, but even had the irregularity not occurred the original decision of the Board would not have been different. In such cases the Chair shall reject the appeal and the Board's original decision will stand; or
- c) that a material irregularity in the assessment process did not occur. In such cases the Chair shall reject the appeal and the Board's original decision will stand.

16.41.2 in the case of an appeal based on grounds of material irregularity in the conduct of the Mitigating Circumstances process (paragraph 16.27 b) above), report his/her findings in writing to the Chair of the Mitigating Circumstances Board, with a copy to the Chair of the Assessment Board whose decision is being appealed. The Chair shall consider these findings on behalf of the Mitigating Circumstances Board, and where appropriate should liaise with and seek views and opinions from relevant academic and other staff. The Chair shall, on behalf of the Mitigating Circumstances Board, reach one of the following determinations:

- a) that a material irregularity in the conduct of the Mitigating Circumstances process did occur and that, had it not been for that irregularity, the original decision of the Mitigating Circumstances Board would have been different; or
- b) that a material irregularity in the conduct of the Mitigating Circumstances process did occur, but even had the irregularity not occurred the original decision of the Board would not have been different; or
- c) that a material irregularity in the conduct of the Mitigating Circumstances process did not occur.

The Chair of the Mitigating Circumstances Board shall notify his/her findings and determination to the Chair of the Assessment Board. The Chair of the Assessment Board shall consider these findings on behalf of the Assessment Board. The Chair shall, on behalf of the Assessment Board, reach one of the following determinations:

- d) that, in light of the findings of the Chair of the Mitigating Circumstances Board, the original decision of the Assessment Board would have been different. In such cases the Chair shall uphold the appeal and modify the Board's original decision as appropriate; or
- e) that, in light of the findings of the Chair of the Mitigating Circumstances Board, the original decision of the Assessment Board would not have been different. In such cases the Chair shall reject the appeal and the Board's original decision will stand.

16.42 Written confirmation of the Stage 2 decision, along with the full reasons for that decision, should be provided by the Academic Standards Manager to the student within **50 University working days** of receipt of the appeal (or within 90 working days in those cases where the Deputy Registrar (Quality and Standards) reviewed the initial decision of the Academic Standards Manager in accordance with paragraph 16.40 above). Where the outcome of the appeal may impact on a student's progression, and any delay in considering the appeal may adversely impact the student's academic career, the University will do all that it can to expedite the consideration of the appeal, however this cannot be guaranteed as it is important that a robust process is followed, and full consideration is given to the appeal.

16.43 Where the Chair of the Assessment Board modifies the Board's original decision, this shall be reported to the next meeting of that Assessment Board.

### STAGE 3: Consideration of a Request for an Appeal Hearing

- 16.44 Should the student be dissatisfied with the Stage 2 decision the student has the right to request the Deputy Registrar (Quality and Standards) to refer the matter for consideration by an Appeal Panel. Such a request must be received by the Deputy Registrar (Quality and Standards) **within 10 working days** of the date of notification of the Stage 2 decision. Where such a request is not received by the deadline, the University's internal procedures are completed. Such a request will not be considered if Stage 2 of the process has not completed.
- 16.45 Such a request must be submitted on the Stage 3 application form accessible via e:Vision. The completed form must stipulate clearly and unambiguously the grounds upon which the request is based, and include a comprehensive statement explaining why the grounds have been met. All evidence submitted must relate only to the grounds for the request. The Deputy Registrar (Quality and Standards) will acknowledge receipt of the request in writing normally **within 5 working days**.
- 16.46 The only possible grounds are as follows:
- a) that there was a material irregularity in the consideration of the academic appeal at Stage 2;
  - b) that new evidence has come to light to support the appeal which could not reasonably have been made available at the time the appeal was submitted.
- 16.47 The Deputy Registrar (Quality and Standards) will consider the request against these grounds, and only these grounds. The Deputy Registrar (Quality and Standards) may request the student or any other party to provide further information or clarification.
- 16.48 Where, in the opinion of the Deputy Registrar (Quality and Standards), there is evidence that one or both of the grounds might have been met the Deputy Registrar (Quality and Standards) shall accept the request and refer the matter for consideration by an Appeal Panel (see paragraph 16.52).
- 16.49 Where, in the opinion of the Deputy Registrar (Quality and Standards), there is no such evidence the Deputy Registrar (Quality and Standards) shall reject the request. In this case the Stage decision shall stand, there shall be no further opportunities for appeal, and the University's internal procedures are completed.
- 16.50 The Deputy Registrar (Quality and Standards) shall notify the appellant in writing of the decision, and the reasons for it, normally **within 20 working days** of receipt of the request. Where it is not possible for the Deputy Registrar (Quality and Standards) to meet this deadline the appellant will be informed and will be advised of the reasons for the delay.
- 16.51 Pending the outcome of Stage 3 the original decision will stand.

### Consideration at an Appeal Hearing

- 16.52 The Appeal Hearing will be conducted by a panel of the Academic Board and its composition will be as follows:
- a) Deputy Vice-Chancellor (Student Experience) or nominee (Chair)
  - b) 2 academic staff members of Academic Council
  - c) President of the Students' Union, or sabbatical officer nominee.

The Secretary to the Panel shall be a nominee of the Deputy Registrar (Quality and Standards).

- 16.53 No member of the Panel shall have had any previous involvement in the case, nor shall have been involved in the teaching or assessment of the student.

- 16.54 The quorum for an Appeal Panel is three, including the Chair.
- 16.55 The Appeal Hearing shall normally be held **within 30 working days** of the written notification of the Deputy Registrar (Quality and Standards) decision to accept the request to refer the matter to an Appeal Panel. Where it is not possible for the Hearing to be held within this timeframe the appellant will be informed and will be advised of the reasons for the delay. Wherever possible the date set will be at the student's convenience.
- 16.56 The student's expenses for attending an appeal hearing will not normally be reimbursed by the University.

### Procedures for conducting an appeal hearing

- 16.57 At least **10 University working days** in advance of the hearing the University will write to the student and ask that within **five University working days** the student:
- Confirm their attendance at the hearing
  - Confirm the name and relationship of the person who will be accompanying them to the hearing
  - Confirm the name and relationship of any witnesses that the student wishes to call during the hearing
  - Provide any additional evidence that they wish the appeal panel to consider that has not previously been submitted at stage one or stage two of the appeals process
  - Provide an indication of the outcome they are seeking within the scope of the regulations.
- 16.58 The members of the appeal panel, the student, the Chair of the Assessment Board whose Stage 2 decision is being appealed and, where appropriate, the Chair of the Mitigating Circumstances Board will receive the same documentation prior to the hearing including:
- the student's submission and supporting evidence
  - the Stage 2 outcome letter, which will include the reasons for the decision
  - the relevant assessment regulations
  - other documents which may be considered relevant.
- 16.59 Submission of additional evidence will not be permitted except orally during the hearing. Tabled evidence will not be permitted.
- 16.60 The panel will ask questions of:
- the student
  - any witnesses that the student wishes to call
  - the Chair of the Assessment Board whose decision is being appealed and, where appropriate, the Chair of the Mitigating Circumstances Board
  - any witnesses that the Chair of the Assessment Board wishes to call
- 16.61 The student is expected to attend the hearing in person. In the event of a student's non-attendance the appeal hearing will proceed. Exceptionally, this condition may be waived by the Chair of the appeals panel where there is evidence to show that a student is unable to comply, e.g. where a student is too incapacitated by illness to attend. A representative will not be allowed to attend on the student's behalf.
- 16.62 Students have the right to call any witnesses that they choose who will be able to provide information pertinent to the issues under consideration at the appeal hearing. The Chair of the Assessment Board whose decision is being appealed also has the right to call any witnesses that they choose who will be able to provide information pertinent to the issues under consideration at the appeal hearing. Witnesses will not be able to ask questions on behalf of the student and are only permitted to be present whilst giving evidence.

- 16.63 Appeal Hearings shall be held in private.
- 16.64 The Appeal Panel shall consider the evidence presented and shall limit its consideration to the grounds stated at 16.46 above. It is not the purpose of the Appeal Hearing to re-hear the original academic appeal. The Appeals Panel will decide, on the balance of probabilities, either:
- i) that one or both of the grounds for appeal are met, in which case the appeal is upheld, and the matter is referred back to the Chair of the Assessment Board or, where appropriate, the Chair of the Mitigating Circumstances Board to reconsider the original academic appeal. The Panel may also make recommendations to the Chair of the Assessment Board and/or the Chair of the Mitigating Circumstances Board; or
  - ii) that neither ground for appeal is met, in which case the appeal is rejected, and the Stage 2 decision shall stand. There shall be no further opportunities for appeal, and the University's internal procedures are completed.
- 16.65 In the event that the Panel does not reach a consensus, the Chair will have the casting vote. No vote will be counted for absent panel members.
- 16.66 The Appeals Panel may also recommend to Academic Council changes to assessment procedures or highlight examples of good practice as a result of the appeals process.
- 16.67 The student, the Chair of the Assessment Board and, where appropriate, the Chair of the Mitigating Circumstances Board will be informed, in writing, of the outcome of the appeal hearing within **5 working days**. The outcome letter will include the reasons for the Panel's decision.
- 16.68 The decision of the Appeal Panel is final and cannot be the subject of any further appeal. This is considered the end of the University's internal procedures.
- 16.69 Pending the outcome of any appeal at Stage 4 the original decision will stand.

### **Reconsideration by the Assessment Board**

- 16.70 Where the Appeal Panel upholds the appeal and refers the matter back for reconsideration by the Chair of the Assessment Board or the Chair of the Mitigating Circumstances Board, this reconsideration must be completed at the earliest opportunity and normally within **20 working days** of notification of the Panel's decision.
- 16.71 This reconsideration will be undertaken in accordance with the provisions of regulation 16.41 above.
- 16.72 The student must be informed by the Academic Standards Manager of the outcome within a **further 5 working days**.
- 16.73 There shall be no further right of appeal following this reconsideration, which shall constitute the completion of the University's internal procedures.

### **Completion of Procedures**

- 16.74 At the completion of the University's internal processes relating to appeals, the Deputy Registrar (Quality and Standards), or nominee, will issue a letter informing a student that the University's procedures are complete. If a student remains dissatisfied with the outcome it may be possible to make a complaint to the Office of the Independent Adjudicator for Higher Education (OIA). Information and eligibility rules are available at <http://www.oiahe.org.uk>

### **Annulment of the decision of an Assessment Board**



- 16.75 Notwithstanding the fact that the student has no further right of appeal, the Deputy Vice-Chancellor (Student Experience) may, in exceptional circumstances, recommend to Academic Council that the decision of an Assessment Board be annulled if:
- i) the Chair of the Assessment Board and/or the Chair of the Mitigating Circumstances Board has failed to reconsider the Stage 1 decision despite referral back following a successful appeal; or
  - ii) the Chair of the Assessment Board and/or the Chair of the Mitigating Circumstances Board has ignored a reasonable recommendation from the Appeal Panel in their reconsideration; or
  - iii) following the completion of all other internal procedures the decision remains perverse or unreasonable to the detriment of a student or students.
- 16.76 If it is felt that the irregularity may have affected other students, Academic Council may annul part or all of the assessment process.
- 16.77 Where Academic Council annuls the decision of an Assessment Board or part or all of an assessment process it shall put in place arrangements as it sees fit in order to remedy the situation. This may include substituting the decision of the Assessment Board with a modified decision.