

# **SENATE REGULATION 12 (August 2017 onwards): Academic Appeals**

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## **Contents**

|  |    |
|--|----|
| Scope and coverage of Academic Appeals procedures .....      | 2  |
| Academic Appeals Committee, Panels and Hearing Panels.....   | 4  |
| Grounds for Academic Appeal .....                            | 5  |
| Submission of an Academic Appeal .....                       | 5  |
| Eligibility check.....                                       | 6  |
| Investigation and Panel consideration .....                  | 6  |
| Hearing Panels .....   | 7  |
| Upheld decisions of Academic Appeals Panels or Hearings..... | 9  |
| Review procedure for the outcomes of Academic Appeals.....   | 10 |
| Office of the Independent Adjudicator .....                  | 11 |

## **Scope and coverage of Academic Appeals procedures**

1. An academic appeal, under this Regulation must relate to one or more of the following decisions of a Panel or Board of Examiners or of research degree Examiners relating to the assessment of an undergraduate, postgraduate taught or postgraduate research student:
  - a) a mark or grade for any examination, test, practical assignment or project, thesis, dissertation or coursework which has been formally confirmed by the Examiners; and/or
  - b) a formal recommendation of the Examiners that a student should obtain or not obtain a degree or qualification of the University; and/or
  - c) the class of degree or any mark of distinction recommended by the Examiners; and/or
  - d) a formal recommendation by the Examiners that a student shall or shall not be permitted to proceed to the next year of a programme of study or repeat any module or programme or resubmit any material (including a thesis or dissertation) for assessment, or re-sit any examination; and/or
  - e) for a postgraduate research student, the outcome of a formal progress review under Senate Regulation 5.16
2. No request for an academic appeal shall be allowed on the basis that the Examiners or Assessors conducting an assessment or progress review are alleged to have erred in the judgement of the academic standard achieved by the student.
3. Matters relating to supervision of postgraduate research students are not normally a ground for appeal but should be considered under the complaints process.

## **Academic Appeals and Complaints**

4. The only rights of academic appeal provided by this Regulation are against decisions of Examiners or Assessors, as set out in paragraph 1 above. The University has also approved a Complaints Procedure, which may not be used by students as a route for the re-consideration of those decisions of Examiners or Assessors, but may be used to complain about any other aspects of provision. If an academic appeal and a complaint are submitted simultaneously, then the Registrar & Director of Governance, Legal, Academic and Student Services will determine, as appropriate, whether each will be considered in turn, for example consideration of the complaint will be suspended whilst the appeal is considered, or whether the academic appeal and complaint will be considered in parallel.

## **Timeliness**

5. Students are required to adhere to the deadlines set out in this Regulation.

## **Fair dealing**

6. Provided that academic appeals do not contravene the University's expectations regarding the conduct of students, a student's career in the University will not be prejudiced by having submitted an academic appeal. Academic appeals will be handled with due discretion by staff in the University. The University reserves the right to investigate the authenticity of any documents submitted in support of an academic appeal. Academic

appeals which give rise to concerns regarding any kind of student misconduct (including the falsification of any documents submitted) may be subject to action under Senate Regulation 6. Vexatious academic appeals will be dismissed at the earliest stage and written reasons will be given.

### Equality Act 2010

7. In the operation of the processes set out in this Regulation the University will remain mindful of its legal obligations, including its duty of care and its obligations under the Equality Act 2010 where appropriate to make reasonable adjustments.

### Parties acting on behalf of students under this Regulation

8. Students are normally expected to pursue their own academic appeal. The University may agree to communicate with a family member or other third party acting on behalf of a student, but will only do so with the express written agreement of the student, in accordance with Data Protection legislation. Students are not normally permitted to be represented in their absence in any hearing or meeting held under this Regulation.

### Confidentiality

9. Raising an academic appeal gives the University permission to investigate the facts and in order to do this to be able to discuss them with appropriate people. Information students submit will remain confidential as far as this is consistent with other parties' rights to know of any allegations that are made against them. If a student makes allegations against staff or Examiners in the context of an academic appeal, the member of staff or the Examiner has the right to know and shall be given the opportunity to respond. If a student is unhappy with such disclosures he or she should state this clearly on the academic appeal form and the Clerk and Secretary to Academic Appeals Committee will advise him or her as to the extent to which the academic appeal may be considered.

### Disclosure

10. The University operates a disclosure policy, which means that a student has a right to see documents used in reaching a decision on his or her academic appeal. The student will only be able to access documents which do not compromise the privacy and confidentiality rights of third parties. Information a student submits will only be disclosed to other members of the University where it is necessary to process the academic appeal

### Mediation Service

11. A student may, at any point of the process request, or agree to, mediation. Progress of the appeal shall normally be temporarily paused pending the outcome of the mediation.

### Attendance of representatives or friends of students at hearings or meetings

12. A student may be accompanied to a meeting or hearing by a representative, who may present the student's case if the student so wishes, and/or by a friend who may be present to support the student. Only a current student or member of staff of the University, or an advice worker from the Union of Brunel Students, or a relevant individual in the case of reasonable adjustments being made for a disabled student, shall normally be permitted to be a representative or friend of a student. Neither the student nor the University shall normally be represented by a legal practitioner at meetings or hearings held in accordance with this Regulation.

### Students and partnership arrangements

**13.** Where partnership arrangements with other organisations are in place for the delivery of learning opportunities to students, any variations to the policies or procedures set out in this Regulation shall be set out in the relevant agreement and guidance to students.

### **Academic Appeals Committee, Panels and Hearing Panels**

**14.** The Academic Appeals Committee is a sub-committee of the Student Experience and Welfare Committee. The Academic Appeals Committee shall consist of a Chair appointed by Student Experience and Welfare Committee, and not less than sixteen members of academic staff (not within their probationary period) also appointed by Student Experience and Welfare Committee, of whom at least three shall be Professors. At least two members of the Committee shall be appointed as Vice-Chairs. The Registrar, or nominee, shall appoint a senior member of the Student Services Directorate as Clerk and Secretary to the Academic Appeals Committee.

**15.** Each member of the Committee shall be appointed for three years and shall be eligible for re-appointment. The term of office of Committee members shall normally commence at the beginning of an academic year.

**16.** If the disqualification and/or non-availability of members of the Committee makes it operationally difficult to consider an individual student case in a timely manner, the Academic Chair of the Student Experience and Welfare Committee, may appoint one or more additional members to the Committee for the purpose of hearing that academic appeal. Suitable members would be drawn from among those members of the academic staff who would not, if already members of the Committee, be disqualified from sitting on the appeal under this paragraph. The Academic Chair of the Student Experience and Welfare Committee, may also appoint additional members to the Committee (not otherwise disqualified under this Regulation) for the purpose of considering an appeal, where it is determined by the Chair of the Committee that the Committee's deliberations require additional or specialist expertise. Persons so appointed may be external to the University.

**17.** No member who has acted as an Examiner or Assessor in connection with an academic appeal under consideration, nor any member of staff who has been involved in any of the matters giving rise to the appeal (such that a conflict of interest may be possible), shall be involved in the determination of the appeal. In the event of a possible conflict of interest, the Chair or Vice-Chair of Academic Appeals Committee shall determine what constitutes a conflict of interest.

**18.** For the purpose of considering individual student cases, the Committee shall normally convene in either a Panel or a Hearing Panel:

- i) A Panel of the Committee may be convened for the purpose of a desk-based consideration of one or more individual academic appeals in accordance with paragraphs 32 to 37 below. A quorate Panel shall consist of three members of the Committee (including one appointed as Panel Chair, as determined by the Committee Chair);
- ii) Where determined in accordance with paragraphs 33 and 36(iii) below, a Hearing Panel of Academic Appeals Committee shall be convened for the purpose of considering individual appeals in accordance with paragraphs 38 to 50 below. A quorate Hearing Panel shall consist of at least three members of the Committee (including a Chair), and shall normally include at least one Professor. The Chair of the Committee should advise on the constitution of

the Appeals Hearing Panel. An Appeals Hearing Panel shall normally be chaired by the Chair of the Committee or one of the Vice-Chairs of the Committee.

The Clerk and Secretary shall appoint a secretary from a pool of qualified officers for appeals panels.

### **Full Committee Meetings and Annual Reporting**

**19.** The Committee shall meet at least once annually to consider matters of policy arising from its work as well as the range of cases and outcomes considered in the previous period. The quorum for meetings of the Committee shall be eight, including the Chair. The Committee shall be supported by the Clerk and Secretary to Academic Appeals Committee.

**20.** The Committee shall submit an annual report to the Student Experience and Welfare Committee.

### **Grounds for Academic Appeal**

**21.** A request for an academic appeal can be made on one or more of the following grounds only:

- a) that there exist circumstances materially affecting the student's performance which were not known to the Examiners or progress review when the decision was taken and which it was not reasonably practicable for the student to make known to the Examiners or progress review beforehand;
- b) that there were procedural irregularities in the conduct of the examinations and/or other assessment procedures, including assessment of coursework, of such a nature as to create a reasonable possibility that the result might have been different had they not occurred;
- c) that there is evidence of prejudice or bias on the part of one or more Examiners, or members of staff conducting a progress review;
- d) that there is evidence of inadequate assessment on the part of one or more of the Examiners, or members of staff conducting a progress review.

### **Submission of an Academic Appeal**

**22.** A student who has concerns about his or her academic results should first raise the concerns informally with an appropriate member of staff at the point the concern arises. A brief record of the discussion should be made by the staff member involved and shared with the student. This informal resolution should normally be completed within 5 working days.

**23.** If a student's concerns are not satisfactorily resolved through informal discussion, the student may submit an academic appeal within 10 working days of the notification of their results. Notification will be taken as the electronic publication of confirmed results.

**24.** Any academic appeal must set out in full the grounds for appeal and must be submitted in writing, electronically and with supporting evidence on the standard form, in accordance with the published procedures of the University. The student is expected to identify whether they intend to submit further evidence in support of their appeal, e.g. medical evidence, which should be submitted within a further 5 working days.

**25.** A student submitting a request for an academic appeal more than 10 working days after notification of his or her results, must provide a satisfactory explanation as to why s/he was unable, for good reason, to submit a request in writing, electronically, within the required timescale.

**26.** The student must clearly confirm in writing the address, normally their Brunel University London email address, to which correspondence relating to the appeal should be sent. To avoid delay (and unless otherwise indicated by the student) it is expected that email shall be used as the primary form of communication.

### **Eligibility check**

**27.** As part of the consideration of an academic appeal, the nominated Appeals Officer will undertake an eligibility check of the submission. Documentation included in the submission and other evidence relating to the matter may be taken into consideration, but additional comments shall not be requested from the student nor any other persons, and neither the student nor any other persons shall be formally interviewed.

**28.** The eligibility check shall determine one of the following outcomes:

- i) that the submission falls under the scope of academic appeals as per paragraph 1 of this Regulation, and sets out grounds as per paragraph 22, in which case the appeal shall be put forward for further consideration;
- ii) that the submission is ineligible since it does not fall under the scope of academic appeals as per paragraph 1 of this Regulation;
- iii) that the submission does not set out grounds as per paragraph 22, in which case the appeal shall be dismissed;
- iv) that the student has failed to comply with the deadline for the submission of an appeal under paragraph 26, and failed to demonstrate a good reason for not having met this deadline, in which case the appeal shall be dismissed.

**29.** If an appeal is considered eligible as per paragraph 29 (i), then it should be progressed as per paragraph 32, and the student informed of the Academic Investigator who will be investigating the appeal on behalf of the College. If an appeal is not considered eligible, as per paragraphs 29(ii), 29 (iii) or 29(iv), the decision must be ratified by the Chair of Academic Appeals Committee (or nominee).

**30.** In all cases, the student shall be informed in writing (normally within 21 calendar days) of the status of their appeal, giving a rationale for any dismissal. A Completion of Procedures letter will be issued to students whose case has been dismissed.

### **Investigation and Panel consideration**

**31.** Once accepted, appeals will be investigated by an Academic Investigator from the College who has not previously been involved with the case. The Academic Investigator may talk to key staff and consider documents and other evidence and the student's Department will be asked to comment on the academic appeal. The Academic Investigator may also meet with the student to discuss the case and such a meeting should represent an opportunity for open and constructive discussion of the case and evidence submitted. A record will be kept by the Academic Investigator and shared with the student within two working days. The student may be accompanied by a representative in accordance with paragraph 13.

**32.** On completion of the investigation, the Academic Investigator will refer the case to a Panel for decision, or exceptionally, recommend an Appeal Hearing. Such a decision may be appropriate for complex cases which may benefit from further consideration. The Academic Investigator shall confer with the Chair of the Academic Appeals Committee to ratify any such referral.

**33.** The Chair of Academic Appeals Committee may, in exceptional circumstances, uphold a case in full or in part through Chair's action approval. A decision would be made using the student's submission, departmental evidence, and the Academic Investigator's Report.

**34.** All written information to be used in reaching a decision shall be made available to the student before the Panel meeting (normally being provided at least 5 working days in advance). The student shall have the opportunity to provide a further statement, if he or she so wishes, but should not provide further evidence. Any comments will normally be tabled at the relevant Panel meeting.

**35.** Having completed its consideration of the academic appeal, and taking into account any written comments received from the student in accordance with paragraph 35, the Panel shall determine one of the following outcomes in relation to the appeal:

- i) to uphold the appeal (in whole or part) and take one of the actions set out in paragraph 51-53 below;
- ii) to dismiss the appeal;
- iii) to refer the appeal to an Appeals Hearing Panel where:
  - the complexity of the appeal warrants consideration in a hearing,
  - particular aspects of the appeal would be best resolved through a hearing,
  - it is in the interests of fairness (for example, where the interpretation of evidence is disputed).

**36.** The Panel Secretary shall communicate the decision of the Panel to the student, providing the reasons for that outcome, normally within 5 working days of the decision being made; and inform the student's College and Department regarding the outcome.

### **Hearing Panels**

**37.** When, under paragraph 36(iii), an academic appeal is referred to an Appeals Hearing Panel, the Clerk and Secretary to the Academic Appeals Committee shall, based on the substance of the appeal and in consultation with the Deputy Dean (Academic Affairs), identify a member of University academic staff (hereafter referred to as 'the University Representative') who shall be asked to present the case in support of the decision of the Examiners, or progress review, under appeal.

**38.** The student shall be given at least 10 working days written notice of the date of an appeals hearing, at which time the Secretary to the Appeals Hearing Panel shall also give the student notice of:

- i) The members of the Appeals Hearing Panel;
- ii) The date, time and place of the hearing;

- iii) The name of the University Representative;
- iv) The student's right to be accompanied by a representative and/or friend, in accordance with paragraph 13 above;
- v) The right of the Hearing Panel to proceed in the student's absence if, having been given due notice of the date of the hearing and sufficient notice of the documentary evidence available to the hearing, he or she fails to appear without providing prior good reason for absence. The decision of the Chair of the Hearing Panel as to whether to proceed in the student's absence shall be final.

**39.** The Secretary to the Appeals Hearing Panel shall also enclose with this notification a set of the documentation which will be considered by the Appeals Hearing Panel. This shall normally include the student's original academic appeal submission, any details of the case gathered by the Academic Investigator, and a copy of the sections of this Regulation governing the order and conduct of proceedings in hearings. A copy of the notification and the documentation shall also be sent to the University Representative.

**40.** The student and the University Representative may each nominate witnesses to attend the hearing. The student and the member of staff shall inform the Secretary to the Appeals Hearing Panel of the identity of all witnesses and brief details of the reason for calling the witness no later than 5 working days before the date of the hearing. In order to seek clarifications that may be useful in determining the outcome of the appeal, the Chair of the Appeals Hearing Panel (in consultation with its Clerk and Secretary) may also nominate witnesses to attend the hearing.

**41.** The Secretary to the Appeals Hearing Panel shall inform all parties in writing of the identity and names of all witnesses in advance of the hearing. It is the responsibility of the party calling the witness to ensure their attendance at the hearing. The University will not be responsible for ensuring the attendance of witnesses and nor will any witness be compelled to attend. The Appeals Hearing Panel reserves the right to proceed in the absence of any particular witness and the ruling of the Chair of the Appeals Hearing Panel on this matter shall be final. The student, the University Representative and the Appeals Hearing Panel shall have the opportunity to ask questions of all witnesses called.

**42.** If the student wishes, by no later than 5 working days prior to the date of the hearing, he or she may provide to the Secretary with an additional statement concerning the appeal.

**43.** The University Representative shall be invited to submit, no later than 5 working days before the date of the hearing, a statement concerning the matter of the appeal.

**44.** The ruling of the Chair of the Appeals Hearing Panel shall be final on the admission of all evidence for consideration by the Panel, including the admission of oral evidence from witnesses or other parties at the hearing. This shall include the power to refuse to hear witnesses on the basis of lack of relevancy.

**45.** A meeting of an Appeals Hearing Panel shall be held in closed session.

**46.** The ruling of the Chair of the Appeals Hearing Panel on any point of procedure relating to the conduct of the hearing shall be final.

**47.** Once a hearing has commenced the Chair of an Appeals Hearing Panel may, if he or she determines that there is good cause, adjourn the hearing for a period of not normally more than 10 working days. If a hearing is adjourned, the Secretary to the Appeals Hearing



Panel shall notify all parties in writing of the date, time and place of recommencement of the hearing, giving notice of at least 2 working days. A reconvened hearing may proceed in the absence of the student if the Chair is satisfied that due notice has been served of the recommencement and there is in the Chair's view good reason for doing so.

**48.** An Appeals Hearing Panel shall determine one of the following outcomes in relation to the appeal:

- i) to uphold the appeal (in whole or part) and take one of the actions set out in paragraph 51 below;
- ii) to dismiss the appeal.

**49.** The Secretary to the Appeals Hearing Panel shall notify the student of the appeal outcome and the reasons for that outcome in writing as soon as is reasonably practicable and normally within 5 working days of the hearing.

### **Upheld decisions of Academic Appeals Panels or Hearings**

**50.** Where it determines to uphold an appeal under paragraphs 36(i) or 49(i) above, the Academic Appeals Committee, or one of its Panels or Hearing Panels, may act as follows:

*In the case of an appeal by an undergraduate and taught postgraduate student*

- a. require the Board of Examiners to reconsider its decision, taking into account such information or findings as the Panel or Hearing Panel may deem appropriate.

*In the case of an appeal by a research student concerning an examination*

- b. **either** require the Examiners to reconsider their decision, taking into account such information or findings as the Panel or Hearing Panel may deem appropriate; **or**
- c. require that the student be permitted to revise and re-submit his or her thesis within a specified time limit with entitlement to such support or supervision as shall be specified by the Panel or Hearing Panel; **or**
- d. require the thesis to be re-examined.

*In the case of an appeal by a research student concerning a progress review*

- e. require the review Assessors to reconsider their decision, taking into account such information or findings as the Panel or Hearing Panel may deem appropriate; **or**
- f. require that the student be permitted a specified period of time to prepare for a further review of his or her progress with entitlement to such support or supervision as shall be specified by the Panel or Hearing Panel; **or**
- g. require the progress of the student to be re-assessed.

**51.** In the case of a research degree examination, if a re-examination is required under paragraphs 51(c) or (d), the Panel or Hearing Panel may require one or more new

Examiners to be appointed. Where one or more new Examiners are appointed, the following procedures will apply:

- a. The total number of Examiners for the re-examination shall not be fewer in number than for the original examination and shall normally include at least two External Examiners;
- b. Where the recommendations of the original Examiners and Examiners conducting the further examination following the appeal differ, the recommendation of the latter will be binding on the University and the Examinee.

**52.** In the case of a progress review of a postgraduate research student, if a further progress review is required under paragraphs 51(f) or (g), the Panel or Hearing Panel may require one or more new Assessors to be appointed, who may be internal or external to the University.

**53.** The Deputy Dean (Academic Affairs) of the student's College, the student's Head of Department and the Chair of the relevant Board of Examiners or the relevant internal and external Research Degree Examiners shall be notified regarding the decisions of the Panels and Hearing Panels.

**54.** Where a Board of Examiners or any other body within the University, or member of staff declines to act in accordance with a decision taken under paragraph 51, the matter shall be reported to the Chairman of Senate. The Chairman of Senate may seek the advice of members of the staff of the University without prior involvement in the matter and may determine how the matter is to be resolved, or alternatively may determine to refer the matter to a meeting of Senate for its resolution. The decision of the Chair of Senate or of Senate thus arrived at shall be final.

### **Review procedure for the outcomes of Academic Appeals**

**55.** A student who considers that his or her academic appeal has not been given full and proper consideration by either the Chair of Academic Appeals Committee, a Panel, or an Appeals Hearing Panel may submit a written representation to an Officer of the University (the Reviewing Officer) without prior involvement in the case, designated by the Chairman of Senate, within 10 working days of receiving the final decision (under either paragraph 37 or 50 above).

**56.** A student may request a review on one or more of the following grounds only, that:

- a) there has been procedural irregularity;
- b) there was prejudice or bias on the part of the Academic Appeals Committee;
- c) the decision is unreasonable.

**57.** If the Reviewing Officer considers that there is good cause to do so, he or she shall take steps to review the concerns raised by the student and shall normally complete the review within 10 working days and may ask one or more members of University staff to assist. Having completed any review, the Reviewing Officer may make recommendations to the Chair of the Academic Appeals Committee regarding any further actions which should be taken to ensure that the student's academic appeal receives a full and proper consideration, or may dismiss the student's representation. The decision of the Reviewing Officer and any subsequent Academic Appeals consideration will be final.

### **Office of the Independent Adjudicator**

**58.** Guidance published by the Office of the Independent Adjudicator for Higher Education (OIA, [www.oiahe.org.uk](http://www.oiahe.org.uk)) shall be followed in issuing of Completion of Procedures Letters to students further to the procedures set out in this Regulation. Once a Completion of Procedures Letter has been issued, a student may apply for external review of their concern by the OIA, in accordance with the OIA's scheme.

*(Updated February 2019)*