

# Quality Code for Higher Education

## Academic Appeals

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<b>Date of Implementation:</b>	August 2022
<b>Originator:</b>	Higher Education & Skills Department
<b>Approval by:</b>	Higher Education Learning & Teaching Committee
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<b>Description:</b>	This document sets out the College's regulations governing academic appeals applicable to undergraduate candidates. The regulation reflects the QAA's Quality Code for Higher Education section B9 and B10.

**NOTE: Where the awarding body has different requirements this will take precedence over the College's Code**

<b>Responsibilities:</b>	Academic Heads / Curriculum Managers Heads of Units Higher Education & Skills Department
<b>Applications for exemptions to:</b>	Higher Education Learning & Teaching Committee
<b>Report Exemptions to:</b>	Higher Education Learning & Teaching Committee
<b>Links to UK Quality Code for HE:</b>	<a href="#">Chapter B9</a> <a href="#">Chapter B10</a>

## Part I: General Principles and Definitions

### 1 Compliance with Regulations

- (a) All appeals shall be conducted in accordance with these regulations and the precepts set out in the Quality Assurance Agency *UK Quality Code for Higher Education*.
- (b) It shall be the responsibility of the Higher Education Learning & Teaching Committee to oversee compliance with these regulations, to interpret them when necessary and to issue guidance as deemed appropriate.

### 2 Impartiality of Decision-Makers

- (a) No person shall be permitted to take part in the making of a decision regarding an appeal where s/he has an interest through being a member of the same Department (or Departments in the case of joint/combined honours candidates) in which the candidate is registered.
- (b) Any person who may be involved in the making of a decision regarding an appeal shall be required to declare an interest where s/he has any other material connection with the candidate, and shall thereby be disqualified from being involved in the making of the decision.

### 3 Distinction between Appeals and Complaints

- (a) These Regulations shall apply only to academic appeals which shall be understood as the request to review a decision regarding the progress of the candidate on his/her programme of study, including the award of any qualification as a result of that progress. Other matters of dispute involving a candidate and the College, or Department or section thereof, shall be termed "complaints" and subject to the College's policy the Investigation and Determination of Complaints.
- (b) In the event of a set of circumstances legitimately giving rise to grounds for both appeal and complaint the Chair of the Higher Education Learning & Teaching Committee, and the person responsible for investigating the complaint in accordance with the Complaints Policy referred to in paragraph 3(a), shall jointly determine in consultation with the candidate/complainant the manner in which the two matters shall be resolved, and the appropriate timescale. All parties shall ensure that the requirements of the respective regulations are fully adhered to.

### 4 Academic Judgement

- (a) The mark to be awarded for an individual piece of work – whether coursework, laboratory report, written examination or similar, and whether formative or summative – or the award of an overall mark or classification for an award, shall be regarded as the academic judgement of the examiner or examiners, or the Examinations Board concerned, and as such shall not be appealable under these or any other regulations or procedures of the College.
- (b) A candidate who wishes to question academic judgement shall be entitled to ask the External Examiner, or Examinations Board to confirm that the work has been marked in accordance with the regulations and procedures of the College in force at the time governing such matters as second marking, and referral to the external examiner. Provided such confirmation is given in writing, with an explanation of the procedures followed, the matter shall be deemed closed and the mark, or other, decision upheld.

## **5 Definitions**

The following shall apply throughout the Regulations:

- (a) The term "undergraduate" shall mean a programme of study for which the requirement for entry to the programme is not dependent on the candidate holding a first degree or equivalent qualification or experience. This definition shall be deemed to include the Foundation Award.
- (b) The term "programme of study" shall mean any module or series of modules undertaken by a candidate for the purpose of achieving the award of credits, a certificate, diploma or degree.

## **6 Privacy, Confidentiality and Data Protection**

- (a) All evidence submitted by a candidate in support of an appeal shall be treated with respect for the privacy of the candidate, and shall be confidential to those members of staff concerned with the matters raised in the appeal, either in the Department(s) against which the appeal is lodged and any committee involved.
- (b) While all evidence submitted by a candidate will normally be seen by those in the Department(s) against whom the appeal is lodged, exceptionally, the candidate may request in writing that information which s/he specifies not be so disclosed. The Chair of Higher Education Learning & Teaching Committee shall determine whether such exceptional circumstances exist. Where the Chair determines that they do not exist s/he shall inform the candidate in writing of that decision and the reasons for it, and shall provide the candidate with the opportunity to have a summary of the evidence, which balances the request for confidentiality against the ability of the Department to respond to the appeal, disclosed. If the candidate is unable to accept either option the appeal shall be deemed to have been withdrawn by the candidate.
- (c) Any member of staff involved with an appeal in any capacity will ensure that the Data Protection Act 1998 is complied with at all times.

## **7 Appeals Panel**

- (a) A Panel of academic staff shall be established from whom members of the Appeals Committees shall be drawn as required.

## **8 Informal Resolution**

- (a) The making of a formal appeal in accordance with these regulations shall not prevent the informal resolution by the parties of the matters in dispute at any time prior to the final resolution of the dispute by the Chair of Higher Education Learning & Teaching Committee.
- (b) It shall be the responsibility of the Academic Head to seek to bring about the informal resolution of the matters in dispute where this seems reasonable, and without prejudice to the right of the candidate to insist that the following regulations be applied in full.
- (c) Where it seems appropriate to the parties and both parties are in agreement, such informal resolution shall be approved by Higher Education Learning & Teaching Committee.

## **9 Application of the College Policy on Harassment**

In accordance with the College Policy on Harassment, a candidate shall not be put at risk of disadvantage, discrimination or victimisation, as a result of lodging an appeal in accordance with these regulations in good faith.

## **Part II: Appeals by Candidates on Undergraduate and Taught Postgraduate Programmes**

### **12 Decisions which may be appealed**

A candidate for an undergraduate programme of study may appeal against the recommendation or decision of the relevant Examinations Board, or of an academic Department:

- (a) to terminate the candidate's programme of study for non-compliance with the attendance and/or submission requirements of the programme
- (b) to terminate the candidate's programme of study on grounds of professional unsuitability or professional misconduct
- (c) to exclude the candidate from an examination, dissertation, placement or other form of study or assessment forming part of the candidate's programme of study
- (d) to award or refuse to award the candidate the qualification or classification of the qualification
- (e) any other decision of an Academic Department, Examinations Board concerning the academic progress of a candidate.

### **13 Grounds for Appeal**

A candidate may appeal on one or more of the following grounds:

- (a) that there existed circumstances affecting the candidate's performance of which the examiners had not been made aware when the recommendation or decision was made, and that had the examiners been aware of those circumstances it was reasonably likely that the examiners would not have made the recommendation or decision, or would have made a different recommendation or decision
- (b) that there were procedural irregularities in the conduct of the assessment process (including administrative error), of such a nature as to cause reasonable doubt as to whether the examiners would have reached the same conclusion had the irregularities not occurred.
- (c) that there are reasonable grounds to believe that the recommendation or decision was influenced by prejudice or bias on the part of one or more of the examiners.

### **14 Proviso for Appeals under Regulation 13 (a)**

- (a) An appeal lodged on ground 13 (a) above, shall, other than in very exceptional circumstances, be rejected for lack of *prima facie* grounds where the evidence provided in support of the appeal was available to the candidate prior to the making of the recommendation or decision by the examiners, and without good reason was not disclosed by the candidate to the examiners.
- (b) The Chair of Higher Education Learning & Teaching Committee shall be the final arbiter of whether "exceptional circumstances" exist.

### **15 Deadline for Lodging An Appeal**

- (a) A candidate wishing to appeal shall lodge a statement in writing, using the designated form, with Higher Education & Skills Department, within 14 days of the date on which notice of the recommendation or decision was served to the candidate in writing. Notice of the recommendation or decision shall be deemed to have been served once it has been posted to the correspondence, local or home address of the candidate. It is the responsibility of the candidate to ensure that his/her current addresses are so recorded.

- (b) A statement of appeal shall be accompanied by all evidence confirming the factors provided in support of the appeal. Where it is unreasonable to expect the candidate to provide all such evidence within the deadline in paragraph 15(a), the candidate shall submit the statement of appeal and available evidence, and indicate on the statement the nature of the further evidence, the reasons for the difficulty in obtaining it, and the date by which it can reasonably be expected to be obtained.
- (c) Failure to lodge an appeal as provided for in this Regulation will, other than in exceptional circumstances, result in forfeiture of the right to appeal. The Chair of Higher Education Learning & Teaching Committee shall be the final arbiter of whether exceptional circumstances exist.
- (d) A candidate to whom a qualification is conferred at a graduation ceremony, either in person or *in absentia* shall be deemed to have accepted that qualification and all marks and classifications which constitute it. No appeal shall thereafter be considered.

#### **16 Vexatious or Frivolous Appeals**

- (a) The Chair of Higher Education Learning & Teaching Committee shall be empowered to determine that an appeal is vexatious or frivolous, and may therefore reject the appeal without an investigation being conducted under regulation 17. The candidate shall be informed in writing within seven days of such a decision, and the reasons for it.
- (b) The Chair of Higher Education Learning & Teaching Committee shall report any decision made under paragraph 16(a) above, and the reasons for it, to the next meeting of the Higher Education Learning & Teaching Committee.

#### **17 Investigation of the Appeal**

- (a) On receipt of the statement of appeal and supporting evidence, the Higher Education & Skills Department shall record the date of receipt and forward the statement and evidence to the Academic Head responsible for the department in which the candidate was registered at the time of the recommendation or decision.
- (b) The Academic Head shall review the statement of appeal and supporting evidence, and invite the candidate to an interview to further explain the matters raised in the appeal as the candidate and Academic Head deem appropriate. The candidate shall be entitled to be accompanied by a person of his/her choosing at this interview, provided that such a person shall not speak for the candidate.
- (c) Once the Academic Head is satisfied that s/he has received sufficient information from the candidate to identify the issues raised in the appeal, subject to Regulation 6 s/he shall serve copies of the statement of appeal and supporting evidence to the Director of Higher Education & Skills.
- (d) Higher Education & Skills Department will review the information within 14 working days of receiving the information.
- (e) Higher Education & Skills Department shall invite the Academic Head(s) to discuss the issues raised in person should either deem that appropriate.

- (f) Where the response and documents (where applicable) have been received by Higher Education & Skills Department, and they are satisfied that the information provided is adequate to proceed with the matter they will copy the response and documents to the candidate, and invite the candidate to submit a further written response within 14 days of being served with the Department's response.

#### **18 Determination of *Prima Facie* case**

- (a) Once Higher Education & Skills Department is satisfied that all relevant evidence has been received from the candidate and the Department(s), and that the requirements of Regulation 17 have been satisfied, Chair of Higher Education Learning & Teaching Committee shall determine whether the statement of appeal, supporting evidence, and responses from the Departments, demonstrate *prima facie* grounds for appeal.
- (b) The Chair of Higher Education Learning & Teaching Committee shall record the decision, and the reasons given.
- (c) Where the Chair and HE Quality Improvement determine that *prima facie* grounds have not been demonstrated they will reject the appeal, and Quality Improvement will inform the candidate, and relevant Departments in writing, within three working days, setting out the reasons for the decision.
- (d) Where the Chair of Higher Education Learning & Teaching Committee determines that *prima facie* grounds have been demonstrated an Appeal Committee shall be appointed by the Chair to hear the appeal.

#### **19 Membership of the Appeal Committee**

- (a) The Appeal Committee shall consist of a Chair who is an independent Academic Head and two academic members of staff. Members of the Committee will be chosen by the Higher Education Learning & Teaching Committee.
- (b) No Higher Education & Skills staff shall be a member of the Appeal Committee. They will provide the secretariat to all appeals.

#### **20 Procedure for Convening an Appeal Hearing**

- (a) The candidate shall be informed in writing of the time, date and venue of the hearing, with at least seven days' notice. Dispatch of communications to the candidate by recorded delivery to the address notified by the candidate on the approved appeal form, shall be taken as evidence that the necessary information has been communicated to the candidate.
- (b) Failure by the candidate to attend the hearing without good cause shall be taken as evidence of the candidate's intention to withdraw the appeal. Good cause shall be determined by the Chair of the Appeal Committee. An appeal may be heard *in absentia* with the agreement of the candidate.
- (c) For candidates whose country of domicile is outside the United Kingdom, or for whom the programme of study is normally delivered outside the United Kingdom, with the agreement of the candidate, arrangements shall be made for the conduct of the hearing by alternative means, such as video conferencing or other appropriate forms of technology.
- (d) The hearing will be held as soon as reasonably practicable, but in any case normally within one month of the decision of the Chair that *prima facie* grounds have been demonstrated.

- (e) The Higher Education & Skills Department shall ensure that both parties have been provided with copies of any written statements or other evidence which is likely to be relied upon or otherwise considered at the hearing.

## **21 Procedures at the Appeal Hearing**

The Appeal Committee shall determine how the appeal hearing is conducted subject to the following principles:

- (a) The responsibilities of the Higher Education & Skills Department shall be to:
- introduce the issues raised in the appeal
  - to provide information and advice to the Committee independent of the candidate and the Department(s)
  - to assist the candidate to ensure that s/he has a fair opportunity to present his or her case
  - to ensure that the proceedings are conducted in a fair manner
  - to ensure that all relevant evidence is made available to the Committee
- (b) The candidate shall have the right to be heard in person by the Appeal Committee, and to be accompanied by a person of his or her choosing. Such person may not speak for the candidate, unless invited to do so by the Chair of the Appeal Committee.
- (c) At the request of the candidate, the candidate's supervisor, or the candidate's Curriculum Leader shall be entitled to be present throughout the giving of evidence, and to provide advice to the candidate and relevant information to the Appeal Committee as either the candidate or Appeal Committee considers helpful.
- (d) The Appeal Committee shall be empowered to call any witness or other person whom it deems qualified to provide relevant evidence, and which shall include representatives of the Department(s) against whose decision the appeal was lodged.
- (e) Other than in exceptional circumstances as defined by the Appeal Committee, the candidate shall be entitled to be present while evidence is presented by any witness or other person called by the Appeal Committee, and to question any such witness. Where the Appeal Committee deems it inappropriate to allow the candidate to be present, the candidate shall afterwards be fully appraised of the evidence given by the witness, and may be permitted to have questions put to the witness by the Appeal Committee in his or her absence.
- (f) At a time determined by the Chair, the representatives of the Department(s) shall be permitted to question the candidate.
- (g) At the request of the candidate, the Chair shall permit the candidate to give evidence in the absence of the representatives of the Department or any other witness, provided that the representatives of the Department shall be fully appraised by the Chair of the evidence given, and the representatives of the Department given the opportunity through the Chair to question the candidate.
- (h) When questions are to be asked under paragraphs 21(e) to 21(g), the Chair shall have regard to the desirability of encouraging any, or all parties, to submit questions in writing to the Chair, and may allow a short period of adjournment during the hearing to facilitate this.
- (i) Any matters of a personal or sensitive nature raised or disclosed during the hearing shall be deemed confidential as between those present *at that time*, unless otherwise agreed with the relevant parties.

- (j) All proceedings of the Appeal Committee shall be minuted by Higher Education & Skills or another person designated by the Chair, other than a member of the Appeal Committee.
- (k) The Higher Education & Skills Department shall be responsible for providing advice to the Appeal Committee on College regulations and procedures. Any questions, for example to clarify points made for the record, will be put via the Chair.
- (l) Once the Appeal Committee is satisfied that sufficient evidence has been presented and the candidate has been given fair and reasonable opportunity to make his or her case, the Appeal Committee shall consider its decision in private.

## **22 Powers of the Appeal Committee**

- (a) The duty of the Appeal Committee shall be to consider all the evidence provided before it and to determine whether the appeal should be allowed or rejected by deciding whether any or all of the grounds in regulation 13 above have been satisfied.
- (b) Where the Appeal Committee determines that the appeal should be rejected, subject to regulation 22(c) below, the decision of the Appeal Committee shall be deemed final and not subject to any further appeal within the College.
- (c) Subject to paragraphs 22(d) and 22(e) below, where the Appeal Committee determines that the appeal should be allowed, it shall declare the decision against which the appeal was lodged invalid, and make one or more of the following orders as it judges appropriate:
  - (i) that the Examinations Board be required to reconsider its decision in the light of the evidence presented at the hearing
  - (ii) that the examiners be required to assess afresh any examination script, piece of coursework or dissertation, or other relevant form of assessment
  - (iii) that the candidate be reinstated and permitted to proceed with his or her programme of study
  - (iv) that the candidate be entitled to submit a fresh piece of coursework, dissertation, project or similar within a deadline determined by the Appeal Committee
  - (v) that the candidate be entitled to sit a further examination as a fresh attempt
  - (vi) such other order as the Appeal Committee deems appropriate, subject to paragraph 22(d) below.
- (d) The Appeal Committee shall not be empowered to award any credit or other qualification, to order the raising or lowering of any mark, or degree classification.
- (e) The Appeal Committee shall be empowered to make such additional recommendations relating to issues arising from the appeal as it deems appropriate - for example, the way in which the assessment process was conducted, or the guidance provided to candidates.
- (f) In all cases the candidate and representatives of the Departments shall be informed in writing of the decision and the reasons for it within seven days of the hearing.



## **23 Confirmation by Higher Education Learning & Teaching Committee**

- (a) Higher Education Learning & Teaching Committee shall be informed, at its next meeting if practicable, of the decision and reasons for the decision of the Appeal Committee, and shall receive the minutes of the hearing approved by the members of the Appeal Committee.
- (b) The decision of the Appeal Committee shall not be subject to further challenge unless it can be demonstrated on a balance of probabilities that the Appeal Committee:
- (i) was not constituted in accordance with these regulations, or
  - (ii) acted outside its jurisdiction under these regulations.
- (c) A candidate who wishes to challenge a decision of the Appeal Committee on one of the grounds in paragraph 23(b) above, shall be required to write to the Higher Education & Skills Department within 14 days of being informed of the decision of the Appeal Committee, detailing the evidence supporting the challenge.
- (d) Where a request to challenge is received in accordance with paragraph 23(c), the matter shall be considered by the full Committee, in the absence of the Chair.
- (e) Where the Higher Education Learning & Teaching Committee is satisfied on a balance of probabilities that the Appeal Committee acted in breach of paragraph 23(b)(i) or 23(b)(ii), it shall declare the decision of the Appeal Committee invalid and order a new hearing before a Committee not involving any of the members of the previous Appeal Committee.
- (f) Where the Higher Education Learning & Teaching Committee is not satisfied on a balance of probabilities that the Appeal Committee acted in breach of paragraph 23(b)(i) or 23(b)(ii), it shall reject the challenge. Where the challenge is so rejected the decision of the Higher Education Learning & Teaching Committee shall be final and not subject to any other appeal or challenge within the College.
- (g) Where a candidate wishes to challenge the decision of the Chair under regulation 18 above, that *prima facie* grounds for appeal have not been demonstrated, paragraphs 23(b) to 23(f) above shall apply. All references to the Appeal Committee shall be read as references to the Chair.

## **24 Recording and Monitoring of Appeals**

- (a) Higher Education & Skills Department shall be responsible for keeping a record of the following information in relation to each appeal:
- the type of decision against which the appeal is lodged
  - the ground(s) on which the appeal is based
  - the outcome of the appeal
  - the time taken for each stage
  - the ethnic origin, gender and any disability of the candidate provided that the candidate has consented to this information being collected for this purpose
- (b) The Higher Education Learning & Teaching Committee shall receive an annual report on appeals decided within each academic session, summarising the information referred to in paragraph (a) above.
- (c) Higher Education & Skills Department shall keep under review, and make recommendations to the appropriate bodies within the Institution as to the:

- adequacy of advice, guidance and support mechanisms for students
- adequacy of staff development and support for those operating the appeal procedures
- the level of understanding of staff and students of the procedures
- the effectiveness of the overall procedures in meeting their aims

## **25 Legitimate Incidental Expenses**

In the event of a successful appeal, the student shall be entitled to the payment of legitimate and reasonable incidental expenses necessarily incurred in relation to the appeal, which may include the cost of travel to the appeal hearing and overnight accommodation, but shall not include the cost of producing or copying evidence relevant to the appeal, or the obtaining of any advice or instruction relating to the appeal. The Chair of the Appeal Committee shall determine which expenses shall be paid following a successful appeal, subject to any further guidance or instruction which may be issued by the Director of Finance.