

PS3. Student Academic Appeals Procedure

1. Definition

For the purposes of this policy an academic appeal, as defined by the Office of the Independent Adjudicator (OIA), is a *"request for a review of a decision of an academic body charged with making decisions on student progress, assessment and awards."*

2. Introduction

This document sets out the procedures for the consideration of academic appeals. It should be read in conjunction with the relevant CITY ULE Regulation on Academic Appeals.

The appeals procedure is available to students of the CITY ULE, with the exception of students who have had their registration suspended by the CITY ULE.

Responsibility for considering appeals of students has been delegated by the University of York to the CITY ULE. All appeals are dealt with CITY ULE before a student can appeal to the University of York.

Students should be aware that submission of an academic appeal does not alter their academic status. As such, they should continue to engage with their programme (where appropriate) as usual whilst awaiting the outcome of their appeal. A student's academic status will only change if their appeal is subsequently successful.

3. Principles underlying academic appeals procedures

We aim to operate an appeals system which:

- is conducted fairly and reasonably
- follows clear straightforward written procedures which are accessible
- respects privacy and confidentiality, subject to the need for an open and fair investigation and for the outcome of the investigation to be reported appropriately
- is evidence based
- comes to a clear conclusion without unnecessary delay
- gives reasons
- provides appropriate redress
- provides an opportunity for review if the above standards have not been met.

Appeals will be treated seriously and students will not suffer any disadvantage or recrimination as a result of making an appeal in good faith. Appeals made frivolously, vexatiously or with malice will not be considered.

For each appeals case, a Case Officer is appointed by the Academic Provost or Vice-Provost in order to carry out the processes and procedures described below.

4. Core considerations

Before initiating the Academic Appeals procedure, students must verify that they have both the right to appeal and grounds for appeal, in accordance with the terms of these procedures.

Before deciding whether to make an appeal, students are strongly encouraged to talk the matter through with an appropriate person in their academic department. It may be that following such discussions, concerns about the result/decision might be clearer and more understandable (e.g. how a mark for an examination/piece of work was arrived at or how the classification has been calculated) and the matter can be resolved informally.

5. Informal Resolution - Procedural Irregularity

Informal resolution is most appropriate in handling potential procedural irregularities. This mechanism is not intended to be used to remedy exceptional circumstances.

Students do not need to use a particular form to raise an informal concern, however, they should do so in writing to their academic department (usually via email). The department may ask a student to summarise or clarify the key parts of their concern in writing if it is unclear. Students should not usually be asked to provide significant evidence during informal resolution. If the matter can't be resolved without gathering extensive evidence, it will usually be best to move on to the formal stage.

Students should be able to express their concerns and feel that they have been listened to. It may be possible to resolve the concern by providing an on-the-spot explanation of why the issue occurred and/or (where appropriate) an apology and an explanation of what will be done to stop a similar situation happening in the future.

Departments are able to offer further explanation and information, and/or where appropriate, an apology, in response to an informal appeal.

6. Decisions which can be appealed

A student may submit an appeal against the following decisions by Boards of Examiners or Academic Boards:

1. Decisions reached as a consequence of assessment of a student's academic performance, including those relating to the outcomes for awards, pass/fail or processing of individual marks;
2. for research students only: that the degree for which the student was enrolled should not be awarded including where, instead, the student should be required to resit an examination or to revise and resubmit a thesis or dissertation for re-examination for the award or for a lesser award, and against the conditions on which such permission is given;
3. decisions concerning student progression, programme transfer or leave of absence (in the case of programme transfers students may only appeal on the basis of procedural irregularity in the process, not against an admissions decision made by a department, which is an academic judgement);
4. a recommendation that a student's enrolment should be terminated on the grounds that the student is academically unsatisfactory, other than where triggered by failure of the programme or failure to progress;
5. other decisions concerning requirements of professional or regulatory bodies in relation to the Policy on Fitness to Practise;
6. decisions regarding Exceptional Circumstances Affecting Assessment.

A student may also appeal against:

1. a decision taken not to uphold recommendations to grant leave of absence, repeat study, programme extensions or other exceptions to programme specifications and enrolment requirements;
2. decisions relating to the application of the Academic Misconduct Policy and Procedures.

7. Grounds on which an appeal may be made

The following will be considered as grounds for appeal against a decision of an Academic Board or Board of Examiners:

1. Exceptional circumstances: in order to have an appeal upheld on the basis of exceptional circumstances, a student must have both:
 - 1.1. Evidence of valid exceptional circumstances at the time of the affected assessments(s); and
 - 1.2. Evidence that they could not have disclosed these circumstances prior to, or at the time of, the affected assessment(s).
2. Procedural Irregularity: In order to have an appeal upheld on the basis of procedural irregularity, a student must establish both:
 - 2.1. That parts of the documented assessment procedure were not applied; and
 - 2.2. That this procedural irregularity, which has disadvantaged the student, was significant enough to have materially affected the decision or recommendation made, rendering it unsound.

The following will be considered as grounds for appeal against a decision:

1. That the CITY ULE procedures were not followed properly;
2. Relevant new evidence exists that could not reasonably have been brought to attention within the deadline for submission of evidence.

The following will be considered as grounds for appealing a decision of a Disciplinary Panel:

1. The Academic Misconduct procedures were not followed;
2. The Department reached a decision that was not reasonable in all the circumstances;
3. New evidence is available which could not reasonably have been brought to the attention of the Department at the time of its investigation;
4. That there was prejudice or bias during the academic misconduct process and this can be proven or there are grounds to support a reasonable perception of prejudice or bias;
5. The penalty imposed by the Department was disproportionate or not permitted under the Academic Misconduct procedures.

8. Overview of Appeals Process

The appeals procedures consist of a Formal Stage and a Review Stage.

Students have 28 calendar days (from the date they are formally notified of the decision against which they wish to appeal) to submit an appeal. The Chair of Appeals Committee can permit an extension to this deadline where good reason is presented.

Where a student is dissatisfied with the outcome of an appeal to the Formal Stage, they have 10 calendar days to submit an appeal against the Formal Stage decision to the Review Stage.

Students cannot raise new issues at the Review Stage.

Both Stages of the appeals procedure should normally be completed within 90 calendar days. Students can also expect to receive an initial consideration decision within 42 days.

Appeals will not be considered by individuals who have previously made decisions in respect of the case.

9. Lodging an appeal

Students wishing to exercise their right of appeal against a decision must submit a Formal Stage academic appeal using the online form within 28 calendar days of being notified of the recommendation or decision against which they wish to appeal.

The key issues of the appeal must be explained in a clear, coherent and concise manner.

The form should be fully completed, accompanied by supporting evidence, and identify the outcome sought by the student. The appeal must be substantiated by evidence, including evidence of any attempts to resolve issues informally with the Department.

Documentary corroborative evidence of the circumstances cited in the appeal should be submitted with the form. Otherwise, an indication should be given of the timescale in which the evidence will be submitted. See section below for evidence requirements.

Where the issues raised in an appeal affect a number of students, those students may submit a 'group appeal'. In such cases, the group may be asked to nominate one student from the group to act as the group representative. The CITY ULE will then normally communicate with the representative only and will expect the representative to liaise with the other members of the group.

Appeals by third parties are not normally accepted. Only a student about whom a decision has been made can lodge an appeal against that decision. Any rare exceptions to this rule must be agreed by the Case Officer and can only be agreed on the basis that the student is incapable of managing their own appeal at the time or in the near future (for example due to incapacity). There must be clear evidence to demonstrate that the student is incapable of handling the appeal on their own behalf. In such cases, students may be supported by members of staff from the Student Union.

The CITY ULE operates a policy concerning communications in relation to academic appeals. This outlines the position in relation to communications with third parties, what is deemed as unacceptable behaviour in communications with staff in relation to appeals, and the CITY ULE's approach to handling unacceptable communications concerning appeals. The Policy on Communications in relation to academic appeals and formal complaints should be read in conjunction with this procedure document.

10. Evidence

The appeals process is an evidence based process. Appeals are very rarely upheld without supporting evidence. Students can upload supporting evidence with their appeal form, and/or submit evidence later.

It is the student's responsibility to obtain the evidence – this will not be done for them by the CITY ULE. Students will not be chased for evidence if they fail to provide it. If students do not provide evidence with their appeal and do not explain why, their appeal will be rejected.

If a student is unsure what evidence might be appropriate, they may wish to seek advice from staff in the Students' Union.

10.1 Exceptional Circumstances Evidence

If a student is appealing on the basis of exceptional circumstances, the evidence they submit in support of their appeal must:

- Be from an independent and relevantly-qualified third party professional.
- Give direct confirmation of their circumstances and the impact on their ability to engage with work in general, or assessment tasks in particular, at the time of the assessment(s) they are appealing in respect of.
- Indicate the period of disruption and duration of impact. A doctor, for example, may be willing to report a retrospective account given to them by the student after the event, but in itself this does not carry weight as evidence if the doctor simply notes that a student reports the impact. Similarly, the CITY ULE's Corporate Services is only able to provide the type of evidence required when a student has used, or is currently using, the services provided by the team to address the circumstances.
- In the event that the professional concerned did not see the student at the time of the assessment but believes that their condition would have prevented them from engaging not only with assessment, but also with professional support services, evidence can still be considered. The professional's evidence in such a case would need to explain the extent to which the circumstances would have prevented engagement with professional services.
- The evidence submitted must also refer to the student's ability to engage with the exceptional circumstances process at the time of those assessments. In some cases, where the circumstances are sufficiently severe, it may be possible to infer good reason from the evidence submitted.
- Evidence must be provided in English or, where the original evidence is in a different language, with a translation by an independent professional third party into English. Translations by students will not be accepted.

10.2 Procedural Irregularity Evidence

Evidence to support a procedural irregularity will vary depending on the nature of the alleged irregularity. Appropriate evidence to support a procedural irregularity claim might include copies of email correspondence between the student and their department demonstrating their efforts to clarify whether an error has occurred. If they are able to, it may be helpful to quote the relevant sections of the CITY ULE's Regulations or Procedures, indicating which the student believes have been breached.

11. Consideration of Formal Stage Appeals

Appeals are considered in the first instance at the Formal Stage of the appeals process. The Formal Stage consists of two parts (A and B below):

11.1 Part A – Initial Consideration

The Case Officer reads the appeal and supporting documents/evidence.

The Case Officer can immediately uphold the appeal on the basis that:

- A clear procedural irregularity has occurred which has placed the student at a disadvantage;
- Exceptional circumstances have been presented, supported by clear evidence from an independent third party professional, and uncontentious good reason for having failed to declare the circumstances at the appropriate time has also been presented and evidenced;
- A previously undiagnosed disability has been evidenced for which adjustment has not been made, and the student has not been at fault for any delay in diagnosis and/or adjustment having been made.

The student may be informed by email to ensure the outcome is communicated to them as soon as possible.

The Case Officer can dismiss the appeal without further consultation or investigation at this point on the following grounds:

- That the student has not included enough relevant information on the appeal form for the officer to understand what is being appealed against and/or what the basis for the appeal is intended to be. This may include failing to cite important dates, such as dates of assessments, where these are necessary to understand the appeal case.
- That the form has not been used to submit the appeal, i.e. supplementary statements have been submitted in place of the appeal form. Where additional statements are submitted in addition to the form, to overcome the character limits or provide information not requested by the form, these will not be read. Exceptional reasons for submitting additional or alternative statements will be considered where clear explanation has been provided for this, for example on the basis of disability or where the case is sufficiently complex for it to be impossible for it to be summarised within the character limits on the form, and where this has been agreed in advance with the Case Officer.
- That supporting evidence has not been provided and:
 - No explanation has been given for the absence of supporting evidence;
 - An explanation has been given for the absence of supporting evidence but this is not considered to be adequate;
 - A date has been set by the student to provide evidence, but this date has passed without any evidence being provided and no agreement has been reached between student and case officer for this evidence to be provided at a later date.
- That the appeal is not submitted by the deadline, and no explanation has been provided, or an explanation has been provided but the Case Office does not consider that the reason given justifies the late submission of the appeal.
- That the appeal does not fall within the grounds on which an appeal may be made (ie no exceptional circumstance or procedural error has been cited).
- That the appeal is against a decision which cannot be appealed against, i.e. the decision type is not listed as one which can be appealed against in the Appeal Procedures. Where the issues raised are more appropriately handled under a different procedure, such as the Complaints Procedure, the appeal can be referred to that procedure directly by the Case Officer.
- That at first sight, no case exists to uphold the appeal (meaning that even if true, the circumstances stated would not amount to grounds, or the evidence provided does not prove what the student says it does).

In cases where an appeal is submitted without evidence but there is an indication on the form that this will be provided, the 90 calendar days for resolution of the appeal will not start until that evidence is provided, the student has subsequently indicated that they are not going to provide it, or the evidence is not provided in the timeframe outlined by the student in the appeal and the student does not make further contact regarding the evidence.

If a case is dismissed, the student will be informed of the decision in writing. A clear explanation will be given and the student will be advised of their right to appeal to the Review Stage. The student will also be informed that no new issues should be raised at the Review Stage of the appeals process.

11.2 Part B – Investigation and Consideration

The Case Officer reads the appeal and supporting documents/evidence and determines that further information is required in order to make a decision on the appeal.

The Case Officer therefore investigates the appeal. As part of the investigation the Case Officer may identify possible remedies with the department in the event that the appeal should be upheld.

Following investigation, the Case Officer may:

- Uphold the appeal on the basis that:
 - A procedural irregularity has occurred which has placed the student at a disadvantage;
 - Exceptional circumstances have been presented, supported by clear evidence from an independent third party professional, and uncontentious good reason for having failed to declare the circumstances at the appropriate time has also been presented and evidenced;
 - A previously undiagnosed disability has been evidenced for which adjustment has not been made, and the student has not been at fault for any delay in diagnosis and/or adjustment having been made; or
- Partially uphold the appeal (ie uphold the appeal on the basis of only one of the appeal grounds cited or in respect of some assessments cited but not others); or
- Reject the appeal on the basis that the grounds for appeal have not been met.

Students will be informed of the decision in writing. A clear explanation will be given and the student will be advised of their right to appeal to the Review Stage. The student will also be informed that no new issues should be raised at the Review Stage of the appeals process.

12. Consideration of Review Stage Appeals

Students who are dissatisfied with the outcome of their appeal at the Formal Stage have 10 calendar days from the date of the Formal Stage Appeal Outcome letter to appeal to the Review Stage. Students must submit a Review Stage appeal form in order to appeal against the outcome of the Formal Stage appeal.

13. Grounds to appeal on the Review Stage

Students may only appeal to the Review Stage on the following grounds:

1. The student can evidence that the procedures outlined in this document were not followed at the Formal Stage of the appeals process. The student must provide a specific example of this procedural irregularity;
2. The student is able to submit new evidence which they must have a good reason for not presenting at the Formal Stage of the Appeals process;
3. The student can demonstrate that the decision made at the Formal Stage was a decision which no reasonable person would find comprehensible. Disagreement with the decision does not make it unreasonable. To apply on this ground the student must provide substantive argumentation as to why no reasonable person could have arrived at the decision that was made.

Students cannot raise new issues at the Review Stage that have not been raised at the Formal Stage.

14. Notification of outcome

The CITY ULE aims to resolve appeals within 90 calendar days from the date of submission of the appeal to the Formal Stage.

The CITY ULE aims to make initial consideration decisions on Formal Stage appeals within 42 calendar days of submission. This means that students should be updated on the status of their Formal Stage appeal no later than 42 days after submission. By 42 days after submission of the appeal, students will normally either be advised that their appeal requires investigation, or they will receive a Formal Stage outcome.

15. Withdrawal of Appeal

A student can withdraw their appeal at any point in the process by email marked “Withdrawal of Appeal”. Once the appeal has been withdrawn, it cannot be reinstated.

16. Correspondence

All correspondence from the CITY ULE in relation to Student appeals shall be sent to the student’s CITY ULE email address, which will be kept open for the duration of their appeal and short period after. It is a student’s responsibility to monitor their email account, including all their junk email folders, for information from the CITY ULE regarding their appeal.

17. Confidentiality

The CITY ULE will keep details of student appeals and any responses to it confidential, except where the disclosure is necessary to progress their appeal or implement a decision on the appeal, or where it is required by law.

If a student has particular concerns about the information they intend to submit in support of their appeal being shared, they may email to request that, if their appeal is investigated, the relevant department/school should only be provided with the minimum information possible regarding those circumstances.

Information about student appeals may be used anonymously to improve services for students.

18. Appeal to the University of York

Where a student is not satisfied with the decision taken in respect of the CITY ULE appeals procedures they may request their case to be treated in accordance with the University of York Regulations and Procedures, stating their grounds for the request.

19. The Office of the Independent Adjudicator

Students who have exhausted the University of York's internal appeals procedures but remain aggrieved may be able to make a complaint to the Office of the Independent Adjudicator for Higher Education. Further information about the OIA is available on the OIA website: www.oiahe.org.uk.