

## Section H: Academic Appeals

### 1 What is an Appeal?

- 1.1 An appeal is a request for a review of a decision of an Examination Board. A student may only request a review of the decision of an Examination Board on the following grounds:
- i. that a procedural irregularity<sup>94</sup> in the assessment process led to a decision detrimental to the student;
  - ii. that the student had mitigating circumstances<sup>95</sup> which the Examination Board could not be made aware of because the student had been unable for valid reasons to divulge them before the Examination Board reached its decision;
  - iii. that there was an arithmetical error in the student's marks.
- 1.2 There is no right of appeal against decisions of an Examination Board which are matters of academic judgement. Academic judgement is the decision made by academic staff on the quality of the work itself or the criteria being applied to mark the work (rather than the administrative process).
- 1.3 An academic appeal may not be brought on grounds of dissatisfaction with the course or inadequate learning support which should be resolved through the *Student Complaints Resolution Procedure*. If a student brings an Appeal which appears to contain a Student Complaint, the University will decide whether the two processes will be considered separately or whether one process is to be suspended pending completion of the other.
- 1.4 The academic appeals procedure is available to any student registered on a taught University of Brighton award including Partner Colleges and Brighton and Sussex Medical School awards.
- 1.5 Where a student has declared a disability to the University, the University will endeavour to ensure that information is available to them at all stages of the procedure in appropriate formats, and that any reasonable adjustments are made to the associated procedure to accommodate the student's needs.
- 1.6 Appeals will be handled with an appropriate level of confidentiality, with information only released to those who need it for the purposes of investigating or responding to an appeal. No party will be told more than is strictly necessary in order to obtain the information required from them.
- 1.7 Where a student wishes to appeal, independent advice and representation can be obtained from the Students' Union.
- 1.8 The University will correspond only with the student and not with a friend, family member, solicitor or other third party. Legal representation is not permitted.

<sup>94</sup> 'Procedural Irregularity' refers to circumstances where the University's procedures or regulations have not been followed or where other errors have been made by the University in considering the assessment. This might include cases where not all the available evidence that had been submitted (e.g. mitigating circumstances) has been weighed in the consideration of or where factual data has been misinterpreted.

<sup>95</sup> Mitigating circumstances are defined at GEAR **Section B6.3.4**. The student **must** provide documentary evidence of their mitigating circumstances in accordance with GEAR **Section B6.3.6**.

1.9 A student whose appeal is under consideration, shall remain registered with the University until a decision is reached regarding their appeal.

1.10 References to any officeholder or member of specific staff in the University shall include any person authorised to act on their behalf (their 'nominee').

## 2 Results Meeting

2.1 Following notification of results, students may wish to meet with a member of staff (normally either their Course Leader or Personal Tutor). This meeting provides an opportunity to seek clarification of results and discuss any concerns before the student decides whether or not to submit a Formal Stage 1 Appeal. Where an arithmetic error is suspected, the staff member concerned may report this to the Chair of the Examination Board for appropriate action (Note that attendance at a results meeting is optional and does not form part of the Appeals process and the student should not miss the deadline for appeal at **Section H3.1**).

## 3 Time Limits

3.1 A student must commence a Stage 1 Formal Appeal within **21 calendar days** from the publication of results on studentcentral or the date of notification, **whichever is the earlier** (e.g. if the notification email/letter date or the date on which posted on studentcentral is 2 February then a valid appeal should be submitted not later than 5pm on 23 February).

3.2 A student who is unhappy with the outcome of the Stage 1 Formal Appeal, subject to demonstrating the required grounds, may be able to seek a Stage 2 Review but must do so within **14 calendar days** of the date of the Stage 1 Appeal outcome letter.

## 4 How to lodge formal Appeal (Stage 1)

4.1 The Appeal process is commenced by completing the form entitled 'Stage 1 Formal Appeal' which should be sent together with supporting evidence to the School Office. The form is available on studentcentral, on the University's website, from School Offices and the Students' Union. An appeal must be submitted by the student. Appeals not on the prescribed form will be rejected. Stage 1 appeals must be lodged with the School Office by email or in hard copy.

4.2 If the student is still awaiting evidence in support of their appeal (e.g. letter from GP) and cannot provide this within the deadline at **Section H3**, they should submit the appropriate appeal form together with a note explaining what further evidence is awaited, giving an indication of when this evidence is likely to be received.

4.3 Supporting evidence should be from an independent source (see **Section B6.3.6**) and not from a family member or fellow student.

4.4 Collective appeals are not permitted.

## 5 Verification and checking of Appeal Form

5.1 The School Office will acknowledge receipt of the Appeal Form and carry out a verification process to check that the given marks are free from arithmetical error

or irregularity and that any applicable mitigating circumstances were reported to the Examination Board and taken into account.

5.2 The School Office will consider whether the appeal falls within the appropriate grounds, is submitted within the required deadline, in the correct format and is suitably evidenced. This may result in the student being referred to a different procedure (e.g. *Student Complaints Resolution Procedure*), the appeal proceeding to formal consideration or the appeal being rejected. If only part of the student's appeal falls within the permitted grounds, the student will be advised of the process to follow.

5.3 The Stage 1 Appeal will then be allocated to an Appeals Adjudicator who has had no previous involvement in the Examination Board decision.

## 6 Consideration of Appeal

6.1 The Appeals Adjudicator will consider the Stage 1 Appeal Form and accompanying evidence together with documentation provided by the student's school. The Appeals Adjudicator will normally complete their consideration of the appeal within 14 calendar days, but may notify the student in the event that it is likely to take longer.

## 7 Outcome

7.1 The Appeals Adjudicator will consider the Academic Appeal and will make one of the following decisions:

- i. that the appeal is upheld and the matter referred back to the Examination Board for consideration afresh;
- ii. that there is insufficient evidence and the Stage 1 Appeal is not upheld.

7.2 The student will be advised of the decision by email and if the Appeal has been unsuccessful will be given details of the right to take the Appeal to a Stage 2 Review including the required grounds (see paragraph 9 below) and the time limit (see paragraph 8.1). The letter will include a succinct explanation of the reasoning behind the decision.

In the event of (i) the Appeal Adjudicator may make recommendations as to any matters which should be specifically considered by the Examination Board.

7.3 The Examination Board will take into account any recommendation or new information and will consider its decision afresh. If circumstances make it impossible to reconvene a full meeting of the Examination Board, an appropriate sub-group will be convened (refer to **Section E8** for reconvening a board).

7.4 In cases where mitigating circumstances unknown to the Examination Board have resulted in a student's appeal being upheld, these circumstances may be referred back to the appropriate School Mitigating Circumstances Sub-Committee for consideration before the matter returns to an Examination Board.

## 8 Review (Stage 2)

8.1 If the student wishes to seek a review of the Formal Stage 1 decision they may request that the Appeal is reviewed by the Secretary to the Academic Board or

nominee. The appropriate 'Stage 2 Review Request' form should be lodged with the School Office within 14 calendar days from the date of the Stage 1 outcome email. The form is available on studentcentral, on the University's website, from School Offices and the Students' Union.

- 8.2 Review requests submitted outside this specified timescale will be ruled invalid unless the student is able to provide good reason why they were unable to submit the form within the 14 calendar day time limit.

## **9 Grounds for Stage 2 Review**

9.1 A Stage 2 Review may only be requested on the following grounds:

- i. that relevant procedures were not followed during the Formal Appeal Stage 1;
- ii. that the outcome of the Formal Appeal Stage 1 was manifestly unreasonable on the basis of the evidence available at that time;
- iii. that new material evidence has been provided which for good reason the student was unable to supply when the Formal Appeal Stage 1 was considered.

## **10 Outcome of Stage 2**

10.1 If the Appeal review is upheld, the Secretary to the Academic Board will provide the student with a written outcome by email which will be one of the following:

- i. that the Stage 2 Review is upheld and the Examination Board is required to consider the case afresh;
- ii. that the Stage 2 Review is not upheld;
- iii. exceptionally the Secretary to the Academic Board may refer the matter for consideration by the Academic Appeals Committee or may refer it back for further consideration by an Appeals Adjudicator.

The outcome will include a succinct explanation of the reasoning behind the decision.

## **11 External Stage - Office of the Independent Adjudicator**

11.1 If the Appeal Review is not upheld this will be communicated by means of a 'completion of procedures' letter normally within 14 calendar days. This letter will confirm that the academic appeal procedures are complete and that there is no further avenue of appeal available within the University. It will include a clear explanation of the reason for the decision and will advise the student of their right to submit a complaint to the Office of the Independent Adjudicator for Higher Education, the time limit for so doing, and that further advice and support may be obtained from the University of Brighton Students' Union.

## 12 Stage 3 – Referral to the Academic Appeals Committee

### 12.1 Introduction

12.1.1 The function of the Academic Appeals Committee is to establish whether there is, *prima facie*, a justified case for appeal and if so to consider whether to require the Examination Board whose decision has been challenged to reconsider the decision.

12.1.2 The Academic Appeals Committee will meet on the first convenient date, which shall not normally be more than 12 weeks (inclusive of University closures) after the request has been lodged.

12.1.3 The Secretary to the Academic Board will be Secretary to the Academic Appeals Committee and in summary:

- i. is responsible for ensuring that the procedures are appropriately adhered to;
- ii. shall receive the formal notice of appeal;
- iii. shall be satisfied that an appeal is within the grounds given at **Section H1.1**);
- iv. shall convene a meeting of the Academic Appeals Committee;
- v. shall ensure that decisions are notified to all parties concerned and that appropriate action is taken.

### 12.2 Timing

12.2.1 Ten working days' notice of the date, time and venue of a meeting of the Academic Appeals Committee will be given to the members, the appellant and any other persons being required to attend. The notice to the appellant shall be sent by recorded delivery service to the address given on the written notice of appeal.

12.2.2 An appellant is required to inform the Secretary to the Academic Board in writing if the appellant intends to be absent from the address given on the letter of appeal (particularly if they will be absent from the United Kingdom) at any time during the 12 week period.

### 12.3 Constitution, membership and terms of reference of the Academic Appeals Committee

12.3.1 The terms of reference are as follows:

A Committee of the Academic Board to act on behalf of the Board in:

- i. deciding whether there is a case for appeal by the student against an examination board decision as set out in the University's GEAR for Taught Courses;
- ii. informing the student where the case for appeal is not upheld;

- iii. requiring an Examination Board whose decision has been challenged by the appeal to reconsider the decision where the case for appeal is upheld.

12.3.2 The Academic Appeals Committee will be composed of persons who have had no direct involvement with the student(s), or the course or the Examination Board concerned.

12.3.3 The membership of the Academic Appeals Committee shall be:

- i. Chair, a member of the Chair's Group;
- ii. a Head of School or Head of Department, from a School/Department other than that in which either the Chair of the Examination Board or Chair of the body making a recommendation to the Vice-Chancellor is based, or the academic staff member is based, or the appellant is based;
- iii. a member of the academic staff from a School other than that in which either the Chair of the Examination Board or Chair of the body making a recommendation to the Vice-Chancellor is based, or the Head of School or Head of Department is based, or the appellant is based;
- iv. a student of the University, from a School other than that in which the appellant is based, nominated by the Students' Union.

12.3.4 If it is necessary to convene the Academic Appeals Committee at short notice and in the event that none of the appointed members in a particular category (i.e. (ii), (iii) or [iv]) is available, the Chair of the Academic Board, or in the Chair's absence the Deputy Chair, shall have the right to replace any of the appointed members by a member of the same category, where appropriate.

12.3.5 The members eligible to serve on the Committee shall be reviewed annually by the Academic Board.

Up to eight individuals will be appointed in categories (ii) and (iv) and 12 individuals in category (iii).

12.3.6 Any potential member who has been involved in examining, counselling or advising an appellant will be ineligible to serve on the Committee hearing the case of that appellant.

12.3.7 A quorum of the Academic Appeals Committee will be three members.

12.4 Procedure adopted for a meeting of the Academic Appeals Committee

12.4.1 Papers for a meeting of the Academic Appeals Committee will be available to members of the Committee, the Secretary to the Academic Board, the Chair of the Examination Board and the appellant, and be circulated no later than five working days before the meeting.

The papers will include:

- i. notes on procedure;
- ii. **Section H** of the University's GEAR for Taught Courses;

- iii. the appellant's letter of appeal (together with any supporting documentation);
- iv. appropriate information supplied to the Secretary to the Academic Board by the Chair of the Examination Board concerning the appellant's academic performance;
- v. any other written statement or evidence from the appellant.

Statements tabled at the meeting by the appellant shall not be permitted except by approval of the Committee and may result in the meeting being adjourned (**refer Section H12.5**).

12.4.2 The appellant must be present at the meeting of the Academic Appeals Committee and cannot be represented in absentia by a third party. The appellant may be accompanied by a person of their choosing. The appellant is responsible for securing the attendance of any person accompanying them and will inform the Secretary to the Academic Board of the name of the person.

The University's provision of a hearing within the appeals procedure does not act as a Court of Law. It is therefore considered inappropriate for the parties to have legal representation. The University would therefore not normally expect the appellant to be accompanied to the meeting of the Academic Appeals Committee by a legal representative. Should the appellant choose to be accompanied by a legal representative, the University then reserves the right to its own legal representative at the meeting.

12.4.3 If the appellant does not appear and the Academic Appeals Committee is satisfied that notice of the appeal hearing was duly sent to the appellant in accordance with **Section H12.2**, the appeal lapses.

12.4.4 Normally the Examination Board shall be represented by the Chair, who may be accompanied by a person of their choosing.

12.4.5 The Secretary to the Academic Board, or nominee, shall normally be present throughout the meeting in order to advise the Committee.

12.4.6 The following procedure shall normally be adopted for a meeting:

- i. preliminary private discussion by the Committee of the case;
- ii. evidence from the appellant, and any person accompanying them, in the presence of the Chair of the Examination Board and any person accompanying the Chair;
- iii. questions by the Committee to the appellant and any person accompanying them;
- iv. questions by the Chair of the Examination Board and any person accompanying the Chair, to the appellant and any person accompanying them;
- v. further questions by the Committee;

- vi. evidence from the Chair of the Examination Board, and any person accompanying the Chair, in the presence of the appellant and any person accompanying them;
- vii. questions by the Committee to the Chair of the Examination Board and any person accompanying the Chair;
- viii. questions by the appellant and any person accompanying them, to the Chair of the Examination Board and any person accompanying the Chair;
- ix. further questions by the Committee;
- x. private meeting of the Committee on the evidence presented;
- xi. announcement by the Chair of the Committee's decision in the presence of all parties.

The Secretary to the Academic Board will inform the appellant in writing of the outcome within five working days of the meeting.

12.4.7 The Committee may decide, following its preliminary private discussion, to vary the order of proceedings. If it is not possible for the Committee to come to a final decision, but it is agreed that an adjournment (refer **Section H12.5**) is not necessary, the Committee may reserve its decision but a decision must be made within five working days of the meeting.

12.4.8 The Committee, the appellant and the staff representing the Examination Board may summon to appear any other person(s) whom they may consider to be material witnesses. The appellant and the staff representing the Examination Board shall be responsible for informing:

- i. the witnesses that they propose to call, of the details of the meeting and for securing their attendance; and
- ii. the Secretary to the Academic Board, of the names of the witnesses.

The Committee shall decide whether the witnesses will be called one at a time or whether they should be required to attend together.

12.4.9 The Committee shall have the discretion to decide whether sufficient information has been presented or if additional information and/or witnesses are required.

12.4.10 The Committee is not empowered to consider an appeal on grounds other than those lodged by the appellant. Any alteration to the grounds of appeal shall necessitate a fresh submission and a new hearing.

12.4.11 All decisions of the Committee shall be made by a majority vote of the members. In the event of the votes being tied, the decision shall be in favour of the appellant.

12.4.12 The proceedings of the Committee shall be confidential. In accordance with the University's guidelines on the conduct of meetings, no tape recording of the proceedings shall be allowed except by prior permission of the Chair of the Committee and the Secretary to the Academic Board.



The minutes of the Committee's meeting and any resulting report shall be confidential to the members of the Committee and the Secretary to the Academic Board only, except where an appeal has been upheld. In these circumstances the minutes and/or a report will be deemed to be of assistance in the Examination Board's reconsideration of a case (**refer Section H12.6**) and will be made available to the Chair of the Examination Board.

12.5 Adjournment

12.5.1 The Committee may at any time adjourn the meeting to a subsequent meeting of the Committee. Where the day, time and venue for such a meeting are not appointed at the time of the adjournment, the Secretary to the Academic Board shall, not less than ten working days before the day appointed, give notice to the members of the Committee, the appellant and any other persons being required to attend, of the day, time and venue of the resumed meeting.

12.5.2 When the meeting is resumed no fresh evidence shall, except by approval of the Committee, be produced unless either:

- i. the substance thereof has been communicated by the appellant to the Secretary to the Academic Board not less than ten working days before the resumed meeting; or
- ii. it is in the nature of a reply to any such evidence.

12.6 Procedure to be followed in the event of an appeal being upheld

12.6.1 If the Academic Appeals Committee upholds the appeal, it shall require an Examination Board to reconsider its decision(s) if:

- i. a student establishes to the satisfaction of the Committee that their performance in the examination was adversely affected by illness or other factors which they were unable, or for valid reasons unwilling, to divulge before the Examination Board reached its decision;
- ii. the Committee is satisfied on evidence produced by a student or any other person that there has been an internal administrative error, or that the examinations were not conducted in accordance with the regulations for the course, or that some other material irregularity relevant to the assessments has occurred.

12.6.2 If the Committee decides that there are grounds for a review, the grounds on which an Examination Board is to be asked to reconsider its decision should be identified. For this purpose it shall supply the Examination Board with its comments, recommendations and any other evidence or information which has been produced.

If a decision is referred to an Examination Board, as detailed above, the Examination Board shall reconsider, within three calendar months of the date of the appeal hearing, the appellant's case, giving due consideration to the comments and recommendations of the Committee. It will either confirm its decision or make such adjustments as in the circumstances seem just. The Chair of the Examination Board will report the decision to the Secretary to the Academic Board and inform the appellant of the outcome.

- 12.6.3 The Examination Board may, if appropriate, seek additional evidence of the student's performance, either through assessment at the next available opportunity, or through a *viva voce* examination, or through any other form of assessment appropriate to the student's circumstances and the requirements of the programme of study.
- 12.6.4 In cases of procedural or other irregularity (**refer H12.6.1**), Academic Board, acting on the advice of its Secretary, is empowered to annul the decision of an Examination Board if in its opinion due and proper account has not been taken of the relevant factors.
- Academic Board may annul such a decision without making a prior request for reconsideration, in particular in cases where it is impossible to reconvene an Examination Board. If an error or irregularity is found to have affected more than one student, the Academic Board may annul the whole examination process or any part of it.
- 12.6.5 When a decision has been annulled it is the responsibility of the Academic Board to take whatever action is required, including, if necessary, the appointment of new external examiners, in order to make revised recommendations in respect of the students concerned.
- 12.6.6 The decision of the Examination Board or, where appropriate, Academic Board, is final. There is no further right of appeal within the University.
- 12.7 Procedure to be followed in the event of an appeal being dismissed
- 12.7.1 If the appeal is not upheld the outcome and the justification for it will be communicated to the appellant by the Secretary to the Academic Board. There is no further right of appeal within the University.
- 13 Monitoring and review of Academic Appeals and quality enhancement**
- 13.1 The Chairs of Examination Boards will maintain a record of all stage 1 academic appeals; the Secretary to the Academic Board will maintain a record of all stage 2 academic appeals. The Academic Board will receive an annual report<sup>96</sup> from the Secretary to the Academic Board on the outcome of all appeals for the academic year, with the expectation that appeals will be monitored, as far as possible, in accordance with the University's Equality and Diversity Policy.
- 13.2 In the light of this report the Academic Board will, if necessary, consider appropriate recommendations for quality enhancement where consistent themes/issues from the report are identified.
- 13.3 The University provides appropriate support for staff dealing with academic appeals through its staff development framework. staffcentral provides staff with access to this academic appeals procedure and to other related policies and procedures.

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<sup>96</sup> An annual report contains an anonymised analysis of academic appeals.