

**UNIVERSITY of CUMBRIA ACADEMIC PROCEDURES AND PROCESSES**

**APPENDIX 5**

**Academic Appeals Procedures**

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## 1. Scope of appeals procedures

### 1.1 Definition

- 1.1.1 An appeal is a request for review of a decision of an assessment board authorised to determine decisions on assessment outcomes, usually the University Progression and Award Board (UPAB) acting on the authorisation of the Academic Board of the University of Cumbria.
- 1.1.2 The request is allowable only on specific grounds; complaints outwith this definition should be progressed through the University Complaints procedures.
- 1.1.3 Where an appellant has also made a complaint under the University's complaints procedure and the outcome of that complaint might be relevant to consideration of an academic appeal, the appeal will be held in abeyance until consideration of the complaint under the complaints procedure has been completed in whole or in part (see 7 below).
- 1.1.4 An appeal may be made in circumstances where a student's performance in assessment has been affected adversely by serious matters beyond their control. The circumstances for appeal are limited (see section 1.3 below).

### 1.2 Eligibility to appeal

- 1.2.1 An appeal may be made by any student who is enrolled on a programme of study offered by the University of Cumbria, at one of its own campuses or sites or franchised to, or delivered under, a collaborative arrangement in another institution, or offered by distance learning, or work based learning, or by study overseas, whether or not the programme leads to an award. Recent graduates may also appeal providing the case is made within the stipulated timescales.
- 1.2.2 An appeal by a third party on behalf of a student will not normally be accepted unless the student is seriously incapacitated. In instances where a student has nominated a third party to act on their behalf the University will require written confirmation of such representation. Third party involvement will usually only be permitted in cases of SPLDn or where the student is seriously incapacitated.
- 1.2.3 An appeal will normally be made by a student as described in 1.2.1 above. Where an appeal addresses an identified common issue, with agreement from all parties, an appeal from a group of students will be considered. If appropriate the university may ask the group to nominate one student to act as a group representative through the appeal process.
- 1.2.4 Appeals against admissions decisions by applicants to the institution will be dealt with under separate procedures.

### 1.3 Circumstances under which an appeal can be considered

- 1.3.1 Consideration of an appeal will be restricted to the following grounds:
  - 1.3.1.1 Where there has been or could have been material administrative error or regulatory or procedural irregularity which has affected the outcomes (including results) for a student's results
  - 1.3.1.2 Where significant **new** evidence concerning extenuating or mitigating circumstances which **for good reason** had not been available to the Module Confirmation Board (MCB) has been produced (for example a medical condition which had not been diagnosed at the time of the Board); or where insufficient weight had been given to extenuating circumstances. Appeals on these grounds will be referred to the EC Panel
  - 1.3.1.3 Where re-registration to re-attend a module following reassessment (Regulation F8.6) has not been offered and there is new evidence relating to the student's engagement or non-engagement with reassessment, which had

not been available to the UPAB, for good reason, at the time of making that decision.

- 1.3.1.4 Students may lodge an appeal at any point in the academic session against withdrawal from their programme of study, when the withdrawal results from non-attendance/non-engagement via the 4 week rule process. An appeal against a decision to withdraw a student from a programme of study, which is taken outside a Board of Examiners meeting, must be submitted to the Student Procedures Team within 10 days of the date of notification of withdrawal.
- 1.3.1.5 Appeals claims which will be ruled **invalid**:
  - 1.3.1.5.1 Disagreement with any mark or grade or placement assessment result will **not** constitute grounds for an appeal. An appeal which disputes the academic or professional judgement of the assessment board, properly exercised, will not be regarded as valid; similarly an appeal may not be based on a questioning of any individual examiner of the assessment board
  - 1.3.1.5.2 appeals for reconsideration/remarking of any component of assessment, however borderline, will be ruled invalid, unless a case for irregularity is upheld, as under section 1.3.1 (i) above
  - 1.3.1.5.3 appeals submitted outside the specified deadlines will be ruled invalid
  - 1.3.1.5.4 appeals by a third party will be ruled to be invalid unless the appellant is seriously incapacitated or there is a recognised SPLD that prevents the individual from engaging with the process appropriately
  - 1.3.1.5.5 where there has been any anomaly in the assessment process, as under section 1.3.1 (i) above, which has **already** been reported to and taken account of by the MCB, this shall also be ruled invalid
  - 1.3.1.5.6 where **new** evidence for illness or extenuating circumstances is brought forward **after** the meetings of the MCB, and there is not evidence of **good reason** as to why it had not been reported to the MCB previously, the appeal shall be ruled invalid
  - 1.3.1.5.7 appeals against allegations of malpractice will only be valid if based on grounds of material administrative error or regulatory or procedural irregularity
  - 1.3.1.8 vexatious, frivolous or fraudulent appeals will be dismissed immediately and may result in disciplinary action against the appellant. The appellant will be advised in writing as to why the application is an abuse of the appeal process.

## 2 **Framework within which appeals procedures will operate**

### 2.1 **Confidentiality**

- 2.1.1 All appeals will be dealt with confidentially, unless disclosure is necessary to progress the appeal. In this event the student will be notified in advance of the disclosure.

### 2.2 **Fair treatment**

- 2.2.1 Students will not be disadvantaged in any way as a result of making an appeal, whatever the outcome, if that appeal has been made in good faith.
- 2.2.2 Any adjustment, as a result of the appeal, to a decision on an assessment outcome will not be to the detriment of the appellant, except in cases of demonstrable computer or administrative error.
- 2.2.3 Members of the Appeals Panel will have no involvement in the assessment of the student. Lobbying of the Panel, the Officer to the Panel and/or the designated appeals administrator by any party is expressly forbidden.

### 2.3 **Progress of appeal**

- 2.3.1 The receipt of an appeal will be logged and acknowledged. The progress of the appeal will be recorded and monitored and the appellant notified at each stage of the outcome and of the reason for the outcome.

### 2.4 **Timescales**

- 2.4.1 Timescales will be adhered to by the University, as indicated in the procedures. Should delays occur, students will be notified of the reasons, and kept informed.
- 2.4.2 Students must adhere to the timescales laid down in the procedures or notify the University of the reasons for any delay.
- 2.4.3 In instances where the procedure runs into a vacation period or in cases where the University needs to clarify the grounds for the appeal with a student, timescales for consideration of the appeal by the University may be extended to ensure full and appropriate consideration.
- 2.4.4 Where the University fails to adhere at any stage to the timescales set out, the student will have the right to proceed to the next stage of the appeal. If this is at the last stage, the student will have the right to refer the appeal to the Academic Registrar who will ensure action is taken as a priority.

### 2.5 **Access to information and documents**

- 2.5.1 The student will have access to information and documents relevant to the appeal, as appropriate under the 1998 Data Protection Act and any subsequent relevant legislation.

### 2.6 **Appeals from students off campus modes of provision and those studying at Collaborative Partner institutions in the UK or overseas**

- 2.6.1 It is recognised that attendance at a hearing on one of the University campuses or sites may be problematic for students on distance learning awards and those studying on placement, in work based learning settings, on smaller sites, or studying at Collaborative Partner institutions in the UK or overseas. Students

studying on these types of provision and wishing to appeal will be given the opportunity to:

- undertake the appeal by correspondence with the nominated appeals officer in the University facilitating this process
- attending a hearing or interview in one of the University's Collaborative Partner institutions (with the permission of the Collaborative Partner) where teleconference or videoconference facilities can be utilised

or

- exceptionally attending a hearing or interview in the University.

2.6.2 Students studying on these types of provision will have the same access to appeals information, sources of help and support as those based on a University campus. Should there be any delay in the provision of such facilities on the part of the University, timescales will be adjusted commensurate with the delay, to ensure fairness and avoid disadvantage. Appropriate allowance will be made on the timescale for appeal and technology will be used where possible to facilitate the appeals process, e.g. email, teleconferencing, videoconferencing or teams.

### 2.7 **Students with Disabilities and/or Specific Learning Difficulties**

2.7.1 Students who need to access documents in different formats, or who need particular facilities or support in the process will be given appropriate help and assistance (see section 6 below).

## 3 **Procedures for appeal**

3.1 The student must make an appeal in writing by fully completing the University Appeals form, and must provide relevant independent documentary evidence, to the Assessment and Awards Team (Academic Registry) within **TEN** working days of the official publication date of the results. Students may indicate the form of remedy they are seeking. The appeal form is available on the student hub at:

<https://my.cumbria.ac.uk/Student-Life/Support/Your-Studies/Assessment-and-Exams/Appeals/>

3.1.1 Should the grounds for appeal not be clearly stated on the appeal form the University reserves the right to contact the student for further clarification on the exact grounds under which the appeal is being sought.

3.1.2 The University Appeals process is an evidence based procedure that requires students to submit independent documentary evidence in support of their claim.

### 3.2 **Stage 1 - Appeal referred to (independent) Chair of UPAB**

3.2.1 The designated appeal administrator will refer the appeal to an independent UPAB Chair (or nominee) when an appeal is made on grounds that the University has not acted in accordance with regulatory or procedural requirements. If the Chair (or nominee) is satisfied that there may be a valid case for appeal under section 1.3.1, they will consider the appeal, usually within **FIFTEEN** working days of the original receipt of the appeal. In the event of an independent UPAB Chair being unavailable within the required timescales, this role may be delegated to an appropriate individual by the Academic Registrar.

3.2.2 It is expected that Stage 1 will be a desk based review undertaken by correspondence.

3.2.3 Appeals submitted under grounds that the University did not act in

accordance with regulatory or procedural requirements the students institute will, if appropriate, be asked to comment on the academic appeal prior to the UPAB chair reaching a final decision. All information provided to the UPAB chair will be given to the student prior to the final decision being reached.

- 3.2.4 Where there is clear evidence provided by the appellant, which has been verified by cross-referencing, the Chair of the UPAB (or nominee) may uphold the appeal. An appropriate adjustment will then be undertaken.
- 3.2.5 If the Chair of the UPAB (or nominee) is not convinced that there are valid grounds for appeal based on the evidence presented the appeal will be denied.
- 3.2.6 In all cases the student will be informed in writing of the outcome of the appeal and their right to a Stage 2 appeal if they are dissatisfied with the outcome of Stage 1.

### 3.3 **Stage 2 - Appeal referred to Appeal Panel**

If the appeal is not satisfactorily resolved at Stage 1 the student may submit a written appeal to the Officer to the Appeals Panel within **TEN** working days of notification of the outcome of Stage 1 if they have grounds to do so. This written appeal must state the grounds on which the appeal is sought and should be accompanied by relevant documentary evidence. The appeal should be submitted on the appeal form available on the website at:

<https://my.cumbria.ac.uk/Student-Life/Support/Your-Studies/Assessment-and-Exams/Appeals/>

- 3.3.1 Extenuating circumstances which have not been declared prior to the Assessment Board meeting for good reason and are submitted through Stage 1 of the appeals procedure will be referred back to the EC Panel for consideration. A student can still appeal at Stage 2 of the appeals process on the grounds that they believe the EC Panel did not follow the defined procedures and/or the extenuating circumstances panel's recommendation was not properly considered by the University Progression and Awards Board.
- 3.3.2 Should the grounds for appeal not be clearly stated on the Stage 2 appeal form the University reserves the right to contact the student for further clarification on the exact grounds under which the appeal is being sought.
- 3.3.3 An Appeal Panel will be established to hear Stage 2 appeals against University Assessment Board decisions. The Appeal Panel will operate with delegated authority from Academic Board which approves the Panels composition and membership. The membership of an Appeal Panel shall be drawn up by the Officer to the Panel in accordance with the following composition:

Chair: Vice-Chancellor's nominee (who will also be a member of the Academic Board)

Members: A senior member of staff, at Principal Lecturer status or above, with appropriate expertise in assessment and academic quality matters.

A student member of the Academic Board (in exceptional cases the Academic Sabbatical may nominate another sabbatical officer of the Students' Union if no member of the Academic Board is available).

No member of the Appeal Panel may have a direct interest in the appellant's case. The Academic Sabbatical of the Students' Union will ensure that the student member of the Appeal Panel is not, and has not been, a student on the

same programme or modules as the appellant, or has represented the appellant at Stage 1 of the procedure.

The Appeal Panel will normally be convened within **fifteen** working days of the final deadline for receipt of a Stage 2 appeals.

An issue which has not been declared as part of the initial appeal submission cannot be raised for the first time at Stage 2; however, additional information and evidence relating to any issue raised at Stage 1 may be included for consideration as can a request for a review of Stage 1 if it is believed that a material administrative error or procedural irregularity at stage 1 of the process has occurred.

- 3.3.4 The designated appeal administrator will provide members of the Appeal Panel with the appellant's written statement of the grounds for appeal along with any other information provided with this; documentation relating to the Stage 1 appeal; documentation from the Assessment Board; and documentation concerning the academic and, where relevant, the practice-based performance of the appellant. The Appeal Panel shall scrutinise this documentation and determine if the grounds for appeal are valid. If it is not valid the appeal will not proceed.

The appellant and designated University Officer presenting the case for the decision made at Stage 1 (or Chair of the UPAB (or nominee) who made the decision at Stage 1) will be given copies of the Stage 2 Appeal documentation and all other documentary evidence submitted as part of the appeal.

- 3.3.5 The membership of the Panel will be notified to the student, who will have the right of veto in advance if good reason is proved. The appellant may be accompanied by a representative or friend, (who may be a member or employee of the Students' Union), the identity and standing of whom must be notified to the Officer at least **five** working days before the Panel meets. The Appeals Panel procedures are internal to the University. There are sources of help described in section 6 below. On exhaustion of the appeals procedures available to the student there is recourse to external review via the Office for the Independent Adjudicator (OIA). External legal assistance is not usually appropriate, but if the student chooses to be accompanied by a qualified professional, the University reserves the right to employ a person of similar standing.
- 3.3.6 The student or the Panel may indicate that they will be calling witnesses. The identity and standing of the witnesses must be notified to the Officer at least **five** working days before the Panel meets.
- 3.3.7 A designated University Officer or, where appropriate the Chair of the UPAB, will present the case for the decision made at Stage 1 of the appeal. They may be accompanied by another member of the UPAB or MCB relevant to the position and reasons for the decisions reached.
- 3.3.8 If the student is unable to attend the meeting of the Appeals Panel for unavoidable reasons and the circumstances are reasonable, the date of the Panel hearing shall be **deferred**. Only one deferral will be possible.
- 3.3.9 Where the student is seriously incapacitated they may send a **proxy** to speak to the appeal on their behalf.
- 3.3.10 If the student **chooses voluntarily not to attend the appeal hearing**, or to send a proxy, the Appeals Panel will continue to hear the case.
- 3.3.11 The Appeal Panel may:

- (i) uphold the appeal based on the evidence presented and refer the matter back to the relevant Assessment Board(s) to achieve an appropriate adjustment to the original decision
- (ii) deny the appeal and uphold the original decision of the Assessment Board
- (iii) postpone a final decision on the appeal subject to seeking further advice, clarification or evidence as necessary.

### 3.4 **Conduct of the Appeal Panel Hearing**

- 3.4.1 The Panel will meet privately, at a pre-hearing meeting, to consider whether there are valid grounds for the appeal review. This meeting may take place prior to the date of the hearing if the Panel does not require any further information from the appellant or designated University Officer (or nominee).
- 3.4.2 The appellant and designated University Officer (or nominee) may be asked to provide further information.
- 3.4.3 The Assessment and Awards Team may request comment on the academic appeal from the student's institute. All information provided to the panel should be given to the student before the panel meets.
- 3.4.4 The Panel will determine whether there are grounds to hear the appeal and inform the student and designated University Officer (or nominee).
- 3.4.5 If the Panel determines there are no valid grounds for the appeal the matter is then closed and the student shall be provided with a Completion of Procedures letter.
- 3.4.6 If the Panel determines there are valid grounds for the appeal the procedures set out in 3.4.7 to 3.4.11 are adopted by the Appeal Panel.
- 3.4.7 Witnesses may be called. They may be questioned by members of the Appeal Panel and, through the Chair, by the student (or the person acting for the student) and by the designated University Officer (or nominee).
- 3.4.8 Procedure for the Appeal Hearing
  - i All parties are invited to join the Appeal Panel
  - ii Introductions
  - iii The student and designated University Officer (or nominee) are asked to confirm that they are satisfied with the impartiality of the Appeal Panel. The Chair of the Panel shall rule on any objections that may be raised
  - iv The Chair explains the powers of the Appeal Panel and its procedures
  - v The designated University Officer (or Chair of the UPAB (or nominee)) states the position and reason for the decision reached
  - vi The student (or person acting for the student) presents their case

- vii Questions from the Appeal Panel members, and/or the student, and/or the designated University Officer (or Chair of the UPAB (or nominee))
- viii Final comments from the designated University Officer (or Chair of the UPAB (or nominee))
- ix Final comments from the student
- x When the Chair of the Appeals Panel is satisfied that the case has been fully and properly heard the Appeal Panel will meet privately to determine the outcome of the appeal.

3.4.9 The Appeal Panel will be supported by an administrator from the Assessment and Awards Team who will compile a written report of the panel meeting.

3.4.10 All parties will remain available for further questioning, if found necessary.

3.4.11 The decision of the Appeal Panel is given verbally to all parties.

3.4.12 The Officer of the Appeals Panel shall ensure that the appellant and the designated University Officer (or nominee) are notified in writing of the findings of the Appeal Panel within **five** working days of the Panel's decision.

3.4.13 Where the appeal is upheld appropriate adjustment to the original decision of the Board will be undertaken.

#### **4 Independent External Review**

4.1 Upon completion of the final stage of the University's Academic Appeals Procedures the student will be provided with a Completion of Procedures letter advising that they may pursue the matter further by submitting a Scheme Application form to the Office of the Independent Adjudicator (OIA) ([www.oiahe.org.uk](http://www.oiahe.org.uk)). This must be submitted within twelve months of the date of the Completion of Procedures letter.

#### **5 Research Students**

5.1 Appeals in respect of research students registered will be dealt with under Postgraduate Research Degrees Regulations and Appeals Processes. Advice on making an appeal (or a complaint) will be available from the Graduate School.

#### **6 Sources of Advice and Guidance**

6.1 Students may seek impartial support and guidance from

- i. Assessment and Awards Team (how the appeals process is operated)
  - ii. Student Services
  - iii. Students' Union
  - iv. Personal Tutor
  - v. Professional associations or trade unions
- } for guidance and support with making the appeal

6.2 Access to sources of help may be in person, by telephone or by email. Contacts are published on the University website ([www.cumbria.ac.uk](http://www.cumbria.ac.uk)).

## **7 Relationship with other procedures**

- 7.1 There are separate complaints procedures, and there is a separate University policy on harassment. Issues under appeals and complaints processes are kept separate to avoid confusion of outcomes. However, in cases where an appeal is contingent on the outcome of a complaint, the complaint should be resolved first.
- 7.2 Any information submitted as part of an academic appeal which subsequently is identified as fraudulent will be disregarded for the purpose of the appeal. In such cases, the student may be referred for consideration under the Academic Malpractice Procedure (see Appendix 3d, 5.4.4) or the Disciplinary Procedure or Fitness to Practise Policy (also see Appendix 3d, 7.6.5v).

## **8 Financial consequences of action under the application of these procedures for appeal**

- 8.1 The University will meet reasonable and proportionate incidental expenses necessarily incurred by an appellant in those cases where a stage 2 Academic Appeal is upheld. Students may submit claims for agreed expenses to the Officer to the Appeals Panel on notification of the outcome of the appeal being upheld. These will be processed as soon as possible.

## **9 Monitoring and review process**

- 9.1 All appeals will be monitored and reviewed through the University's Student Success and Quality Assurance Committee (SSQAC) and Academic Board.

## **10 Status of a Student during an Appeal**

- 10.1 A student whose case is under consideration via an internal appeal shall have the right to continue with their programme, where they have sufficient academic credit to progress and provided that they are not in debt to the University or subject to Fitness to Practise procedures, until such time as a decision has been reached. This right is designed solely to ensure that a student whose appeal is upheld is not academically disadvantaged and it should not be interpreted as acceptance of a failed student on a subsequent stage of the programme.