

# Policy

## Academic Appeals

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## Introduction

- 1 This document describes the institution-wide process for the management of academic appeals for students on taught and research programmes.
- 2 This appeals process operates within the context of the Learning Partnership Agreement and the UK Quality Code Section B9: Complaints and appeals and Section 11: Research degrees and with reference to the Good Practice Framework for Complaints and Appeals (OIA, 2014).
- 3 The University has one appeals process for all academic matters.
- 4 No appeal made in good faith, even if unsuccessful, will disadvantage the student.

## What is an academic appeal?

- 5 An academic appeal is a request that a decision made by either:
  - an Assessment Board with regard to assessment, progression or award, or
  - Mitigating Circumstances panel, or
  - an MPhil/PhD transfer panel, or
  - a PhD viva Panel, or
  - a Fitness to Practise Panel, or under the procedures for
  - Academic Misconduct

be reconsidered on the basis that a mistake has been made and that this has had a significant negative impact on the student.

The permitted grounds for appeal are listed in the table below.

Decision making body	Permitted grounds for Appeal
Assessment Board	'Procedural Irregularity'
Mitigating Circumstances Panel	'Procedural Irregularity' or 'Manifest Unreasonableness' or 'New Evidence'
MPhil/PhD transfer panel	'Procedural Irregularity'
PhD viva Panel	'Procedural Irregularity'
Fitness to Practise Panel	'Procedural Irregularity' 'Manifest Unreasonableness' or 'New Evidence'
Academic Misconduct	'Procedural Irregularity'

- 6 No appeal is allowed on matters relating to academic, or in the case of practice based assessments, professional judgement. An appeal may only be raised from the most recent decision e.g. the most recent Assessment board decision on progression.

Appeals cannot be back dated to a previously held event as an appeal should have been made at the time.

- 7 Other concerns should be raised through the appropriate process:
- the tutorial system or a student representative;
  - the student complaints process for concerns relating to the provision of a programme of study or service;
  - the mitigating circumstances process where a student's performance has been affected by personal circumstances.

## Grounds for an academic appeal

### 'Procedural irregularity'

- 8 A procedural irregularity is a failure of a decision-making body/ decision maker to follow the process or rules in place for making decisions, or when a decision has been made based on an error of fact.
- 9 Examples could include:
- Assessed work not properly assessed in accordance with University regulations;
  - Mathematical error or an error in recording marks;
  - Work not assessed by an approved assessor or examiner;
  - Decision-making body not properly constituted;
  - Decision-making body did not act in accordance with University regulations or procedures;
  - Prejudice or bias on the part of one or more examiners, assessors or panel members.
- 10 A procedural irregularity will only be considered grounds for an appeal where the failure has had a **material effect** on the decision which is being appealed.
- 11 Dissatisfaction or disappointment with the result of an assessment or decision of those areas covered within the Academic Appeals process is not sufficient grounds for an academic appeal.

### 'Manifest unreasonableness'

- 12 An academic appeal may be made against a decision of a Mitigating Circumstances or Fitness to Practise Panel on the grounds of 'manifest unreasonableness'. This may include a decision which appears unreasonable in the light of the evidence presented, or in the case of a Fitness to Practise Panel a disproportionate or inappropriate sanction been applied.

### 'New evidence'

- 13 An academic appeal may be made against a decision of a Mitigating Circumstances or Fitness to Practise Panel if evidence has come to light following the decision of the panel which:
- was **not available** at the time of the meeting of the panel; and

- has a **material bearing** on the basis on which the panel's decision was made.
- 14 It should be noted that for evidence to be considered '**not available**' it must not have been accessible to or known to the student at the time they were required to make their submission to the panel. Information available but not requested of the information holder by the student or not provided to the panel will not be considered valid grounds for an appeal.

## Evidence

- 15 For an appeal to be considered there must be evidence supporting the claim.
- 16 Admissible evidence must be factual and specific in supporting the grounds for appeal; it might include **original** versions of:

- medical certificates;
- assignment feedback forms;
- correspondence (written or email);
- witness statements (which must be dated and signed);
- tutorial record forms;

The decision letter or e-mail notification containing information on which appeal is based **must** also be provided.

- 17 Copies of documents are not normally acceptable. Originals will be copied and returned to the student if requested.
- 18 Providing documents that are fraudulent or include unauthorised amendment may cause a student to be referred to the Student Disciplinary Process and/or Fitness to Practise where applicable.
- 19 Unsupported claims or unsupported allegations against any individual or group of staff will not be considered. False information or defamatory allegations submitted as part of an appeal can lead to disciplinary action.
- 20 Evidence of mitigating circumstances will not be accepted directly as grounds for an Academic Appeal. A student wishing to submit a mitigating circumstances claim must do so by following the Mitigating Circumstances process.

## Impact of participation in the appeals process

- 21 Where a student is in the process of any stage of an academic appeal they may attend a graduation ceremony for any award that has been confirmed. Should the outcome of the appeal lead to a change in classification or a different award being made, an updated certificate will be provided on return of the original award.
- 22 The University reserves the right under this process to take no further action in response to an appeal if the matter becomes the subject of court or tribunal proceedings which have not been stayed (adjourned or put on hold). In effect consideration of the appeal will be suspended until such time as the proceedings are completed.
- 23 By engaging in the Academic Appeals process, students remain subject to all other processes and procedures of the University, for example disciplinary action.

## Sources of advice and guidance

- 24 Students are encouraged to seek advice from the Students' Union Advice Centre before submitting a formal appeal.
- 25 Students may also approach the Academic Quality Directorate for information regarding how the appeals process works.

## The academic appeals process

- 26 The appeals process is divided into three stages, 'local', 'formal' and 'review'.
- 27 Due to the nature of decision-making process for Fitness to Practise, Mitigating Circumstances and Academic Misconduct, an investigation cannot be made into decision making process as part of the local stage. Any appeals raised regarding these processes will start at the formal appeal stage. Students are still encouraged to seek clarification of the decision making process (see paragraphs 29 and 30).
- 28 A procedure flow chart is provided at Appendix 1.
- 29 In the first instance an attempt to resolve queries and concerns informally should be made.
- 30 Decision-making bodies are expected to be open to re-examining their decision-making processes when queried by a student and, where an error has been made, evidence misinterpreted, or procedures not been followed, they should change a decision if appropriate, without the need for a formal appeal.
- 31 The University seeks to resolve academic appeals as quickly as possible and normal timescales are included in this document. On occasion, a student or the University may not be able to meet the normal timescales for a good reason and all parties will be kept informed of any changes to timescales.
- 32 It is the right of a student to withdraw from the appeal process at any time.
- 33 Students should be advised that if they are in a referral situation, and have submitted an appeal, they should still complete and submit their referral work within the given time limit.
- 34 Students, where permitted to progress or continue a programme of study should also continue to undertake relevant learning and teaching and assessment activities.
- 35 Appeal submissions should be as clear and concise as possible, concentrating on the grounds for the appeal and linked to the evidence. Other information which does not constitute an appeal, such as a complaint about the level of service provided, should be excluded and the appropriate route followed for these kinds of concerns.

### Stage 1 – Local academic appeal

- 36 Students should make their concerns known in writing, using the 'Local Academic Appeal Form' within 10 working days of the notification of the decision for which they wish to raise an appeal. The students concerns should be directed as per the table below.

<b>Decision making body</b>	<b>Point of contact</b>
Assessment Board	School registrar for the programme
MPhil/PhD transfer panel	Research unit
PhD viva Panel	Research unit

- 37 Failure to access the decision made regarding their studies in a timely manner, for example not reviewing results lists on the virtual learning environment (VLE) is not sufficient reason to submit an appeal beyond the time limit of 10 working days, except in exceptional circumstances - for example protracted hospitalisation.
- 38 Concerns received should be referred as follows for investigation and an attempt at resolution made:

<b>Decision making body</b>	<b>Referral person/contact for local investigation</b>
Assessment Board	Nominated investigator
MPhil/PhD transfer panel	Nominated member of the research supervisory team
PhD viva Panel	Nominated member of the research supervisory team

The role of the investigating officer is to explore the issues raised, collate and review any evidence available, including that from the student as requested to come to a conclusion on the local appeal. They may need to conduct meetings with the student and or members of staff, either individually or as a group as part of this process. It is anticipated that this review should take no more than 10 working days.

- 39 At this stage any error which has been found should be corrected by the appropriate decision making body, which may be by Chair's action.
- 40 At the end of this process the student should be notified in writing (see Local appeal record form, Form 2) as to what steps have been taken to resolve their concern, a response to each of the key facts of the matter, the outcome of the local process with or without the offer of a resolution, and their right to submit a formal appeal if they are still dissatisfied. This correspondence should also include any additional documentary evidence on which the decision has been made.
- 41 All documentation and evidence considered, including notes of meetings, outcome of the local appeal and where appropriate written communications, should be held electronically by the school registry team for future reference and monitoring purposes and the local appeal record form forwarded to AQD.

## **Stage 2 – Formal academic appeal**

- 42 At any point during the formal process where it proves possible to come to a resolution, formal proceedings will cease, the appeal will proceed no further and will be closed.

- 43 Should both parties agree to undertake mediation, the appeal will be put on hold pending the outcome of the mediation process. Neither party will be disadvantaged by taking the opportunity for mediation. If the mediation is unsuccessful the appeal will be restarted from the point at which it was stopped. For further information regarding the University’s mediation service please see the [policy and procedure document](#).

**Submitting an appeal**

- 44 If a student wishes to proceed with a formal appeal this should be submitted to the Academic Quality Directorate ([appeals@bucks.ac.uk](mailto:appeals@bucks.ac.uk)) within 10 working days of receiving notification of the conclusion of the local appeal process or notification of the decision of the Fitness to Practise panel, Mitigating Circumstances panel or outcome of Academic Misconduct investigation.
- 45 It is not appropriate to add additional grounds at the Formal Appeal stage, which were not raised at the local stage. A full explanation of the grounds that have been cited must be made, meeting the definition (see paragraphs 5-6 and 8-14 for permitted grounds and definitions).
- 46 To make a formal appeal a student must complete a ‘Notice of formal academic appeal’ form and submit this together with:
- A copy of the decision notification that they are appealing against;
  - local appeal record form and accompanying documents (if appropriate, see paragraph 27);
  - all relevant evidence to support the appeal (see paragraphs 15-20 for guidance regarding evidence).
- 47 Students undertaking a course of study with a collaborative partner of the University should follow the local stage within their home institution. Formal appeals should be directed to the University immediately after the informal stage has been completed and within the University’s timescales.

**Academic Quality Directorate initial review of documentation**

- 48 When an appeal is received it will be reviewed initially by a member of AQD to determine whether it has been submitted within the requirements of the process. If one or more requirements are not met, the actions will be taken as listed in the table below:

<b>Action</b>	
Not within the designated time limit	Rejected
Not/Inappropriately completed ‘Notice of Academic Appeal form’	Returned to student for completion/clarification with set deadline for response
No evidence of an attempt at local resolution (excludes Fitness to Practice, Mitigating Circumstances and Academic Misconduct)	Request clarification of local resolution and if none undertaken refer back to the appropriate local stage.

No admissible grounds/ grounds not explained	Request clarification from student with set deadline for response. If not received the appeal will be rejected.
No evidence supporting the grounds	Request clarification from student with set deadline for response. If not received the appeal will be rejected.

- 49 Appeals submitted which require further clarification or additional evidence to proceed will be referred back to the student for response within a specified time period. Failure to respond by the stated deadline will result in the appeal being rejected.
- 50 Appeals brought on inadmissible grounds will be rejected with, if appropriate, a recommendation for the student to pursue an alternative process i.e. student complaints.
- 51 Appeals rejected at AQD initial review stage will complete the formal stage of the process.

#### **AQD case officer – preparation for panel**

- 52 Following the initial review by a member of AQD which confirmed that the appeal met the initial requirements for consideration by an Academic Appeals Panel, a case officer will be assigned from AQD to prepare the papers.
- 53 The case officer's role is to provide the panel with a coherent and concise factual report of the appeal and to provide guidance on any specific regulations or course information that may be required. They will not make a judgement on the case.
- 54 During the review of the appeal by the case officer, the School/Mitigating Circumstances Panel/Chair of Fitness to Practise Panel/Decision maker for Academic Misconduct may also be approached for further information to be supplied if it is found that there are matters outstanding. A response will be required in a specific timescale and will be shared with the student prior to the Panel meeting.
- 55 The case officer may also need to request further information from the student within a specific timescale.
- 56 All information will be shared with the student and the representative of the decision-making body prior to the panel meeting with the formal invitation to attend the Panel.
- 57 Where in the opinion of the case officer there is a clear and obvious reason to uphold the appeal, they will refer the case to the Chair of the next Academic Appeals panel for consideration by Chair's action. Examples include a mathematical error, new evidence not available at the local stage which has a material bearing or a clear breach of University regulations.
- 58 Cases which have been confirmed as being referred to a panel may not be rejected by Chair's action.

#### **Academic Appeals Panel**

- 59 Academic Appeals Panels will be scheduled in advance to take place at regular intervals throughout the academic year.



- 60 It is the responsibility of the Panel to:
- consider the evidence presented by the student and decision-making body
  - consider the case officer's report
  - determine if the evidence provides that the grounds have been met
  - make recommendations to the original decision-making body, if appropriate, to reconsider the decision in the light of the grounds that have been established.
- 61 Once a case officer has completed their review, the case will be added to the agenda of the next Academic Appeals Panel scheduled to take place (or the following meeting if less than 10 working days remain). The student and representative will be notified of the date and time of the Panel and be provided with the full documentation.
- 62 The student will be invited to attend the meeting. If a student is unable to attend the Panel on the date and time set they may ask for their case to be deferred to the next scheduled meeting. Further postponement will not be granted except in exceptional circumstances.
- 63 If a student chooses not to attend, or is unable to make a second proposed Panel date, the appeal will be decided in the student's absence based on the evidence presented.
- 64 The decision making body will be invited to send a representative to the meeting – normally the individual who investigated the appeal at the local stage. The decision of the Panel will not be invalidated by failure of the representative being available.
- 65 The Academic Appeals Panel will comprise:
- A senior member of University staff, at an equivalent level of Head of School or higher
  - two School appeals nominee (from a different School to that which the case relates)
  - the Students' Union Vice-President of Education & Welfare (or nominee)
  - Chair of the Research Degrees Committee (for research student appeals only)
  - a secretary provided by the Academic Quality Directorate
- 66 The Chair may also invite observers or co-opt additional panel members to provide specific expertise. In order for the panel to be quorate, a minimum of one of the Schools appeals nominees must attend the panel.
- 67 A student attending a Panel has the right to be accompanied by one other person acting as a supporter or representative. See the section below, 'Support and Representation' for definitions.
- 68 If a student who is normally based at one of the University's campuses is not currently attending the University campus – for instance during vacation or on placement - they will be entitled to be reimbursed for reasonable, personal out-of-pocket expenses in attending a Panel. Students undertaking distance learning or who are based at Partner organisation campuses either in the UK or overseas and are unable to attend for good reason will be invited to join the meeting by telephone or other electronic means.
- 69 If the student does not attend owing to unforeseen circumstances and is able to submit evidence to support this, in the interest of fairness the Panel's decision will not be

confirmed and the case will be referred to the next scheduled Academic Appeals Panel.

- 70 The Chair will ensure that both the student and representative of the decision making body are given an opportunity to present to the Panel and to answer questions posed by the Panel for clarification.
- 71 After both parties have presented their cases, the Chair will ask them to leave and the meeting will be concluded in private. The Chair of the Panel may at their discretion either; defer the appeal to be concluded at a later date/defer it to be heard at the next scheduled Panel. Examples of why this may be required are: if the representative of the decision making body is ill on the day and cannot be replaced at short notice, if there is additional information that the panel requires to make its decision or if additional information is raised in the meeting to which either the student or representative has been unable to respond, and which may have a material bearing on the decision.

### Outcomes

- 73 The secretary to the Panel will inform both the student and the representative in writing of the Panel's decision within 5 working days. The student's school registrar will also be informed.
- 74 If an appeal is upheld it will result in a recommendation to the relevant decision making body to reconsider the case in the light of the findings of the appeal.
- 75 The recommendation may cover one or more of the following:
- guidance to the decision-making body in terms of correct procedure or the interpretation of procedure for the case in hand and/or in general
  - highlight an error or errors which have been made, or information which has not been taken into consideration
  - suggest a change in practice or procedure
  - suggest a potential remedy or course of action.
- 76 It should be noted that even in the case of a successful appeal this may not make a difference, significant or otherwise, to a student's overall position or final award.
- 77 For appeals against the decisions of the **Assessment Board** or **Mitigating Circumstances Panel**, they must be re-convened, or a decision taken by Chair's Action within 10 working days of the notification of the Appeals Panel decision. The student and the Appeals Panel secretary will be notified in writing within 5 working days of the decision taken.
- 78 For appeals against a decision of **Academic Misconduct**, the Head of School will be required to re-consider their decision within 10 working days of the notification of the Appeal Panel decision. The student and the Appeals Panel secretary will be notified in writing within 5 working days of the decision taken.
- 79 For appeals against the decision of a **Fitness to Practise Panel**, the case will be referred to a new panel with no prior involvement to consider.
- 80 For **MPhil/PhD transfer or PhD viva panel** appeals, the research unit will send written confirmation of the actions to be taken within 10 working days of the notification of the decision.

### Finding of Bias or Prejudice

81 Where an Appeals Panel makes a decision that there has been prejudice or bias in the original decision-making process, the case will be referred to the Director of Academic Quality to consider the most appropriate route for the new decision to be deliberated. This may be:

- Referred to the Mitigating Circumstances panel, with specific members excluded
- A mitigating circumstances claim be reviewed by the Director of Academic Quality in liaison with 2 members of Academic Staff with experience of the Mitigating Circumstances Procedure;
- Referred to a new Fitness to Practise Panel
- Referred to another Head of School to consider an allegation of Academic Misconduct

### Rejected Appeals

82 If the appeal is rejected by the panel the student will be informed of their right to request a 'review of appeal' (stage 3).

83 If the student does not request a review within the specified time scale, the case will be closed.

84 The student may request that the University provide a 'Completion of Procedures letter' in order to make a complaint to the Office of the Independent Adjudicator. The University will provide these as requested and it will clearly state that the student has not completed the procedures of the institution.

### Stage 3 – Review of Appeal stage

85 If a student is dissatisfied with the outcome of the formal appeal, the student has the right to request a 'Review of Appeal' (review) on limited grounds.

### Grounds for a Request for Review

86 The grounds for a review are limited to:

- Material procedural irregularity; for example
  - Decision-making body not properly constituted
  - Decision-making body did not act in accordance with University Academic Appeals process
  - Prejudice or Bias
- Manifest Unreasonableness; i.e. was the outcome reasonable in all the circumstances?
- New material evidence that could not have reasonably provided in the formal appeal. The additional evidence must be
  - **not available** at the time of the meeting of the panel; and
  - have a **material bearing** on the basis on which the panel's decision was made.

It should be noted that for evidence to be considered '**not available**' it must not have been accessible to or known to the student at the time they were required to make their submission to the panel. Information available but not requested of the information holder by the student or not provided to the panel will not be considered valid grounds for an appeal.

- 87 The review will not consider any new issues raised by the student or normally reconsider the issues that have been raised in the formal appeal.

### **Submitting a Request for Review**

- 88 In order to request a review, the student must submit a statement in writing to [appeals@bucks.ac.uk](mailto:appeals@bucks.ac.uk), addressed to the Director of Academic Quality, within 10 working days of receiving notification of the conclusion of the formal appeal process. Any evidence to support the request for review should be provided with the statement, or if in hard copy, listed in the statement and forwarded to AQD.
- 89 The request for review will be assessed within 5 working days of being submitted to AQD to ascertain if it meets the criteria above (i.e. made in time, citing appropriate grounds and with explanation of the grounds).
- 90 If the request for review does not meet the criteria, the request will be denied and the student will receive a Completion of Procedures letter, which will outline the reason(s) for denying the review and will advise the student of the right to further action through the Office of the Independent Adjudicator.

### **Consideration of a Request for Review**

- 91 If the request for review is considered to meet the criteria, the case will be considered by a Principal Registrar from AQD, or nominee as agreed by the Director of Academic Quality, who has not previously been involved, hereafter referred to as the 'Reviewer'. The Reviewer will undertake the review, which would be expected to be completed within 10 working days.
- 92 It is the remit of the Reviewer to decide if:
- The grounds cited have been proven;
  - If the proven grounds have a material effect on the case; and therefore that the case should be reconsidered at a new Academic Appeals Panel.
- 93 If the Reviewer finds in favour of the student, the student will be written to, normally within 10 working days of completing the review, informing them of the decision and explaining the procedure for the appeal to be re-heard.
- 94 If the Reviewer does not find in favour of the student, they will provide the student with a Completion of Procedures letter, which will outline the reason(s) and advise the student of their right to further action through the Office of the Independent Adjudicator.

## **Research Students**

- 95 Students on research programmes (MPhil, PhD or Professional Doctorate) may have further recourse to their awarding body. This will be dependent on the agreement between Buckinghamshire New University and the research partner which the student is linked to.
- 96 The Research Unit will be able to offer advice on the specific procedures in place.

- 97 If there is an additional stage at the research partner, under the rules of the OIA scheme, a student may be eligible to file a complaint either after the Review of Appeal stage at Buckinghamshire New University and/or after the completion of procedures at the research partner.

## Support and Representation

- 98 Students attending an Academic Appeals panel are entitled to be accompanied by another person to act as a supporter or as a representative.
- 99 A **supporter** is defined as 'a friend or other supporting person, attending the meeting to provide moral and emotional assistance'. A supporter is not expected to speak or take any formal part in the proceedings. This may be, for instance, another student, a member of staff, a family member or a Students' Union Adviser.
- 100 A **representative** is defined as 'a person authorised to act as an advocate of the student'. A representative has the right to speak and question witnesses on behalf of the student and would be expected to present the student's case if required, though it is preferred that the student make any statements regarding the case themselves. This role is normally fulfilled by a member of the Students' Union Advice Centre.
- 101 When responding to the invitation to attend the Panel the student should state if they are to be accompanied to the meeting and in what capacity.
- 102 At the beginning of the Academic Appeals panel the role of any person accompanying the student must be confirmed.
- 103 The University does not allow formal legal representation as part of its internal appeals process. The exception to this will be appeals against the decision of the Fitness to Practise Panel. In line with the Fitness to Practise policy the Chair retains the discretion to determine whether in appropriate cases (e.g. where a right under the European Convention on Human Rights is involved) legal representation may be granted if requested. If legal representation is granted for the student, the panel should have the right to be legally assisted as well.

## Monitoring and review

- 104 In order to maintain a rigorous and equitable procedure, the appeals process will be subject to regular monitoring carried out by the Academic Quality Directorate.
- 105 Students will be able to access information regarding the process, and case studies, through the University's website.
- 106 All informal appeals are required to be tracked and all Local Appeal Record forms must be forwarded to the Academic Quality Directorate at the point they are provided to the student, whether or not an appeal is taken to the formal stage.
- 107 An annual report on Academic Appeals, collated by Academic Quality Directorate, will be presented as part of the University annual monitoring process. This report will publish statistics relating to the Appeals received throughout the academic year.

## Conduct & Behaviour

- 108 The University has zero tolerance towards those whose behaviour is considered to be unacceptable and will take action to protect its staff.
- 109 The University's definition of unacceptable behaviour includes communicating with the University in a malicious, vexatious or aggressive manner for example:
- a. Making frivolous appeals, or multiple appeals regarding the same subject
  - b. Acting in a threatening manner either verbally, through an e-mail or by letter
  - c. Making appeals that are knowingly false or unfounded.
- 110 If the behaviour of a student is unacceptable the University will normally tell them why their behaviour is considered unacceptable and give them an opportunity to amend it. If the behaviour continues, the University will take action.
- 111 Action that may be taken may include but is not limited to:
- a. requesting contact in a particular form (for example letters only);
  - b. requiring contact to take place with a named person;
  - c. restricting telephone calls or emails to specified days and times;
  - d. asking the student to appoint a representative for all correspondence;
  - e. asking the student to enter into an agreement about their conduct.
- 112 Where a student continues to behave in a way considered to be unacceptable, they may be referred under the University disciplinary and/or Fitness to Practise procedure if appropriate.
- 113 Where the behaviour is so extreme that it threatens the immediate safety and welfare of staff, the University will consider reporting the matter to the Police or taking legal action.

## **Appendix 1 – Academic Appeals Process Flowchart**

