

07.8

APPEALS PROCEDURE – UNFAIR PRACTICE DECISIONS OF COMMITTEES OF ENQUIRY

# Key Details

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| **POLICY TITLE** | Appeals Procedure – Unfair Practice Decisions of Committees of Enquiry |
| **DATE APPROVED** | 08 Sep 2010 |
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| **OUTCOME OF EQUALITY IMPACT ASSESSMENT** |  |
| **RELATED POLICIES / PROCEDURES / GUIDANCE** | [*Academic Handbook Ah1\_08 (cardiffmet.ac.uk)*](https://www.cardiffmet.ac.uk/registry/academichandbook/Pages/Ah1_08.aspx) |
| **IMPLEMENTATION DATE** | 08 Sep 2010 |
| **POLICY OWNER (JOB TITLE)** | Director of Registry Services |
| **UNIT / SERVICE** | Registry Services |
| **CONTACT EMAIL** | regulations@cardiffmet.ac.uk |

# Version Control

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APPEALS BY CANDIDATES FOUND GUILTY OF UNFAIR PRACTICE BY COMMITTEES OF ENQUIRY

# Grounds for Appeal

## Appeals may only be considered based on one or both of the following grounds:

### irregularities in the conduct of the unfair practice procedure which are of such a nature as to cause reasonable doubt whether the Committee of Enquiry concerned would have reached the same decision had they not occurred;

### exceptional personal circumstances, which were not known to the Committee of Enquiry when the candidate’s case was considered and which can be shown to be relevant to the Unfair Practice.

## In appeals based on these grounds the appellant must show good reason why such personal circumstances were not made known to the Committee of Enquiry before its meeting. Where a candidate could have reported exceptional personal circumstances to the Committee of Enquiry prior to its meeting, these circumstances cannot subsequently be cited as grounds for appeal.

# Appeal Submission

## Any appeal shall be sent, in full, in writing (using the Committee of Enquiry Online Appeal form) to Registry Services and must be submitted no later than fourteen days from the date of the notification of the Committee of Enquiry outcome by Registry Services.

## Applications for appeal submitted outside this timescale, with good reason, may be accepted at the discretion of Registry Services. Simple notice of appeal given in writing by a candidate within the above deadline shall not be deemed to constitute an appeal proper and shall not be accepted.

## The Chair of the Appeal Board shall have the discretion to declare inadmissible any matter introduced by the appellant, or by any member of staff or student accompanying the student, if he/she deems it not directly related to the contents of the appeal previously lodged in writing within the stipulated deadline.

# Appeal Consideration

## The Vice-Chancellor or nominee is required to disallow an appeal:

## which is based wholly on factors which were known to the Committee of Enquiry when the penalty was imposed;

## which introduces information, which was known to, and could have been reported by, the candidate prior to the meeting of the Committee of Enquiry.

## Appeals against a decision of the Committee of Enquiry shall be considered by the University’s Appeal Board which shall consist of three persons, one of whom shall be a nominee of the Vice-Chancellor (in the Chair) and two of whom shall be members of the Academic Board. This shall normally be within three months of receipt of the application for appeal.

## With the prior written agreement of the appellant and the Director of Registry Services or his/her nominee, a case may be expedited by referral for executive action by the Chair of the Appeal Board. An appeal shall not be rejected by Chair’s executive action, the only decision available shall be:

## to refer the case back to the relevant Examination Board for further consideration.

## to refer the case to a full Appeal board for decision.

## The Appeal Board shall have delegated powers to act on behalf of the University's Academic Board.

## An appellant shall be offered a personal hearing by the Appeal Board and shall accordingly be informed in advance of the time and date of the meeting. The appellant may be accompanied by a member of the University’s academic or welfare or advisory staff or by a student or officer of the Students’ Union, but not by any other individual. The appellant may not send any other person to an Appeal Board in his/her stead.

## The School concerned shall be invited to send a member of staff to attend the hearing and, at the invitation of the Chair of the Appeal Board, to contribute to the hearing. The School shall accordingly be informed in advance of the time and date of the meeting and shall be provided with a copy of the candidate’s application for appeal.

## The Appeal Board shall base its decision on the evidence of the appellant’s submission and the testimony of the Chair of the Committee of Enquiry concerned, together with any further evidence, which it considers relevant.

## The decision of the Appeal Board and the recommendations or advice where appropriate to the circumstances of the case shall be conveyed by the Director of Registry Services or nominee, to the appellant and the Chair of the Committee of Enquiry as soon as possible.

## The Appeal Board shall be empowered to take one of the following decisions:

## to reject the appeal;

## to disallow the original penalty and to refer the case back to the members of the original Committee of Enquiry for a review of the penalty imposed;

## to require a new Committee of Enquiry to re-hear the case.

## Where a new Committee of Enquiry is required to re-hear a case, the membership of that committee must be entirely different from that of the previous committee.

## The new committee shall not be provided with any evidence of any penalty imposed by the previous committee, or of any other matter discussed by the previous committee or appeal board, other than that it is re-hearing a case on appeal.

## An obligation to hear the case on the basis of the facts presented before them at the hearing and not in the light of anything that they may have heard or discovered outside the committee, shall be framed within any terms of reference applying to the committee members.

## The decision of the Appeal Board shall be final, and the matter shall, therefore, be regarded as closed. There shall be no discussion of the decision of the Appeal Board with the appellant or any other person.

# Appeal Outcomes

## If an appeal is upheld, the Director of Registry Services, in consultation with the Chair of the Examination Board shall then arrange for the publication of such supplementary pass-list or progression list as may be necessary.

## If, as a consequence of a successful appeal, a candidate is regarded as having qualified for his/her award, such a candidate shall be:

## either

## admitted to his/her degree at the next succeeding Degree Congregation; alternatively, the Vice-Chancellor shall have authority to deem such a candidate to have been admitted to his/her degree, provided all other necessary conditions for admission have been met;

## or

1. given his/her Pearson Certificate or Diploma, SQA Certificate or Diploma or other award at the first convenient juncture provided all other necessary conditions for the award have been met as appropriate.

## Further to 4.2(i) above, the Vice-Chancellor shall also have authority to deem a candidate who has already been admitted to a degree to have been admitted to a different class if, following a successful appeal, the Examination Board decides that the candidate's degree classification shall be amended. In such cases, the Director of Registry Services or nominee shall arrange for the issue of a replacement certificate upon the return from the candidate of the original certificate.

## The Appeal Board may make recommendations for consideration by the Academic Quality and Standards Committee or the Academic Board as appropriate on any matters arising from the consideration of appeals.

# Office of the Independent Adjudicator

## Pursuant to the Higher Education Act 2004, the Office of the Independent Adjudicator for Higher Education (the OIA) has been designated by the National Assembly for Wales from 1 January 2005 as the operator of an independent scheme in Wales for the review of student complaints.

## Once all the relevant Cardiff Metropolitan University procedures above have been exhausted a candidate may submit a complaint to the OIA about the way in which the appeal had been processed. Any such complaint must be submitted by sending a completed scheme application form together with all relevant information to the OIA within twelve months of the date on the ‘Completion of Procedures Letter’ from the University on completion of its internal procedures. A scheme application form can be downloaded from the OIA website [www.oiahe.org.uk](http://www.oiahe.org.uk/) or by telephoning or writing to the OIA. The contact details for the OIA are as follows:

OIA Second Floor, Abbey Wharf, 57-75 Kings Road, Reading, RG1 3AB

Tel: 0118 9599813

Email: [enquiries@oiahe.org.uk](mailto:enquiries@oiahe.org.uk)