

B.b PRINCIPLES AND PROCEDURES FOR A STUDENT TO APPEAL AGAINST THE OUTCOME OF A VIVA VOCE RESEARCH DEGREE EXAMINATION

The procedures set out in this document are quite distinct from those concerning students who are required to withdraw from the University for unsatisfactory academic performance (Section A).

For further guidance, please contact the University Secretary's Office at +44 (0) 191 227 4399

Students may seek independent advice and support from the Students Union Advice & Representation Centre: su.advice@northumbria.ac.uk

B.b1 PRINCIPLES

B.b.1.1 The University's *Articles of Government* state that Academic Board is the body responsible for 'policies and procedures for assessment and examination of the academic performance of students...[and] procedures for the award of qualifications'.¹ Academic Board exercises this responsibility by laying down academic regulations for all matters relating to research degree examiners, examinations and awards; and by delegating conduct of these arrangements to the Graduate School Committee and the University Research Degrees Committee.² Appeals against the viva voce (oral) examination outcome are therefore submitted to the Vice Chancellor as Chair of Academic Board, and are formally considered on behalf of Academic Board.

B.b.1.2 Procedures exist to enable students to appeal against a viva voce (oral) examination outcome, and to have that appeal considered in accordance with the principles of natural justice:

- the matter is dealt with in good faith, impartially, fairly and in a timely manner;
- no one is the judge in his/her own cause;
- all concerned have the right to a fair hearing;
- detail of the appeal is provided to participants in advance of a Hearing;
- full account is taken of all relevant factors;
- participants are informed of the outcome of the appeal and the reasons for any decision made;
- the outcome represents justice having been done in respect of the appeal.

B.b.1.3 Appeals may be made on the following grounds:

- a) the viva voce (oral) examination was not conducted in accordance with the

¹ Section 3.3(a)

² Regulations for the Degrees of Master of Philosophy (MPhil) & Doctor of Philosophy (PhD) & Professional Doctorate Award Regulations

University's PGR Code of Practice or academic regulations;

b) procedural or organisational irregularities which occurred in the conduct of the viva voce (oral) examination, and which have a direct bearing on the outcome of the examination;

c) new, relevant information is provided about the student's health or personal circumstances, which has a direct bearing on the outcome of the viva voce (oral) examination, and could not be made known in advance of the examination (see B.b.1.6);

d) other grounds acceptable to the Vice-Chancellor, excluding appeals based on the questioning of academic judgement.

B.b.1.4 Appeals are not permitted which are based on questioning the academic judgement of members of academic staff or external examiners, or their academic integrity, or the quality of supervision provided during the programme.³

B.b.1.5 In order for these procedures to operate, it is necessary that full and accurate records are maintained for the organisation of viva voce (oral) examinations, and for all decisions taken by the University Research Degrees Committee.

B.b.1.6 **The student is responsible for providing evidence to the University Research Degrees Committee in advance, through the Principal Supervisor, of any factors which might adversely affect their viva voce examination performance**, and which might give grounds for a subsequent appeal. If presented after the examination, such information would only be considered if accompanied by a valid explanation of the failure to present the information at the due time.

B.b.2 STAGE 1 PROCESS

B.b.2.1 If a student considers that he/she may have grounds for appeal (as indicated in section B.b.1.3 above) or is seeking clarification of the viva voce (oral) examination outcome, he/she should consult in the first instance with the Head of the Graduate School, who is the senior person nominated by the Pro Vice Chancellor (Research & Innovation) to deal independently and informally with these matters on behalf of the Graduate School.

B.b.2.2 The purpose of the Stage 1 process is to provide the student with swift and accessible redress for issues of obvious procedural irregularity. To this end, the Stage 1 appeal process against a viva voce (oral) examination outcome is located

³ With regard to supervision, the University's Research Degree Code of Practice specifies the level and nature of supervision which the School provides and which is the student's entitlement. Standard processes (currently under review) enable students to raise concerns about supervision during the programme; further advice can be sought from the University Secretary's Office.

in the Graduate School in order to provide swift and local access to both (a) the constitutional authority for deciding PGR viva voce (oral) examination outcomes (delegated by Academic Board to the University Research Degrees Committee) and (b) to the administration of PGR viva voce (oral) examinations (the Graduate School). The Stage 1 process is dealt with independently of the routine operation of the University Research Degrees Committee and viva voce (oral) examination administration; and the person nominated to deal with the Stage 1 appeal process is not involved in operational examination matters or University Research Degrees Committee business.

- B.b.2.3 It is the student's responsibility to initiate an appeal, and the appeal is owned solely by the student. If the student feels that they have grounds for an appeal, they should normally, raise this informally within 10 working days of receiving written notification of the confirmed outcome of the viva voce (oral). An appeal can only be lodged after the relevant committee has received and decided on the examiners' recommendations.
- B.b.2.4 The Stage 1 process should normally be concluded within 10 working days of the student lodging the Stage 1 appeal. The person conducting the Stage 1 process normally reaches one of the following conclusions. The outcome of the Stage 1 process will normally be to:
- a) Advise University Research Degrees Committee to revisit their decision on the examination outcome, because obvious procedural irregularities have been identified; and require a report from the University Research Degrees Committee stating what action has been taken; or
 - b) Inform the student that no obvious procedural irregularities have been identified, and advise the student immediately to choose whether or not to proceed to a Stage 2 appeal; or
 - c) Advise the student that the matter is too complex to be dealt with at an informal level, and should (in the view of the person who conducted the Stage 1 process) immediately proceed to a Stage 2 appeal
- B.b.2.5 When the Stage 1 process results in outcome (a) above, University Research Degrees Committee will normally follow the advice to reconsider their decision, acting in accordance with the Committee's Terms of Reference and the University's academic regulations.
- B.b.2.6 When the Stage 1 process results in outcome (b) or (c) above, the student will be advised of the next steps open to them, and of the support available.
- B.b.2.7 Only when Stage 1 has been exhausted (i.e. the student has followed the Stage 1 process and has been informed of the outcome), and the student remains convinced that he/she has firm grounds for appeal, can the Stage 2 appeal procedure be initiated.

B.b.3 STAGE 2 PROCESS

- B.b.3.1 If the student is dissatisfied with the outcome of the Stage 1 process, they may lodge a Stage 2 appeal by completing and submitting the relevant appeal pro-forma to the Student Appeals and Complaints Ombudsman. The pro-forma should set out as fully as possible the reason(s) why the student is appealing, the ground(s) on which the appeal is being brought and should contain any relevant supporting evidence, giving permission for appropriate access to sensitive information under the Data Protection Act. The deadline for the receipt of such documentation will normally be 10 working days after the student was notified in writing of the outcome of the Stage 1 appeal process. Appeals received after the expiry of this period will be accepted only in exceptional circumstances.
- B.b.3.2 While the Stage 2 appeal is being progressed, action following the University Research Degrees Committee's original resolution (i.e. the subject of the appeal) is put on hold.
- B.b.3.3 On receipt of an appeal pro forma from a student, the Student Appeals and Complaints Ombudsman acknowledges receipt and investigates the appeal as follows. Normally within 10 working days of the appeal being submitted:
- The Graduate School provides to the Student Appeals and Complaints Ombudsman the student's viva voce (oral) examination file, comprising details of examiner appointments, all viva voce (oral) examination forms and correspondence, and the relevant University Research Degrees Committee minute(s);
 - The School Registrar provides to the Student Appeals and Complaints Ombudsman the student's personal file, comprising documentation concerning the student's Project Approval, Annual Progression, supervision and enrolment records; details of any research degree studentship held by the student; and any other information.
 - The Chair of the University Research Degrees Committee, Principal Supervisor of the student, PGR Director and the Dean/ADR in the School to which the student belongs and any other relevant person will be invited to submit detailed written comments, in response to the student's appeal pro forma. These comments constitute evidence to be considered in the appeal.
- B.b.3.4 The Student Appeals and Complaints Ombudsman then considers the documents submitted and, in the light of the evidence assembled, the Vice-Chancellor decides which of the following action is appropriate in this case (on the advice of the Student Appeals and Complaints Ombudsman):
- a) If the Vice-Chancellor is unconvinced that Stage 1 procedures have been exhausted, s/he may refer the appeal back to the person nominated to deal with these matters informally within the Graduate School;
 - b) If the Vice-Chancellor concludes that the student has now established their

case, s/he will require the University Research Degrees Committee to reconsider the case, taking into account fully the evidence put forward by the student;

- c) If the Vice-Chancellor considers that the student may have a case (but which is not yet proven), s/he will cause an Academic Board *ad hoc* Panel of Enquiry to be established to consider the case in detail;
- d) If the Vice-Chancellor considers that no *prima facie* case has been established, s/he may direct the appeal to be considered no further. The student and all stakeholders will then be notified accordingly. The Student Appeals and Complaints Ombudsman will issue a 'Completion of Procedures Letter'.

The Vice Chancellor may vary these options if s/he deems appropriate.

B.b.3.5 If the appeal is to be heard by an Academic Board *ad hoc* Panel of Enquiry, the date for the meeting of the Panel of Enquiry will be mutually convenient to the student and the other parties involved. The Student Appeals and Complaints Ombudsman will notify the student of the date, time and place of the Panel meeting and invite the student to attend, accompanied by a friend or member of the University if desired. A Panel of Enquiry will normally be convened within 10 working days of the Vice-Chancellor's decision to convene it.

B.b.3.6 Academic Board Panels of Enquiry will normally be constituted by the Vice-Chancellor as follows:

- Chair: Pro Vice-Chancellor (Research & Innovation);
- Three members of Academic Board of recognised research standing (not being members of the University Research Degrees Committee or nominated viva voce (oral) Examiners for the student or members of the same School as the student);
- One student member of Academic Board (other than the President of the Students' Union);
- A representative of a relevant profession may attend the panel as an adviser as determined by the Pro Vice-Chancellor (Research & Innovation).

The University Secretary will appoint a Secretary to the Panel. Papers relating to the appeal will be received by attendees at least 5 working days before the Enquiry.

B.b.3.7 The Panel of Enquiry is charged with the duty of hearing and judging the student's appeal, according to the following method:

- (a) The Chair of the Panel of Enquiry decides, after taking account of both the written evidence assembled and the student's wishes, and also giving full regard to natural justice, whether evidence from each party can be heard in the others' presence;
- (b) The student, accompanied by a friend if desired, is invited to present evidence

and to respond to questions from the Panel. If the student fails to attend the Enquiry, the Panel will decide whether to proceed in his/her absence or to inform the Vice-Chancellor and Academic Board that it cannot reach a judgement (in which case, the Vice-Chancellor, taking into account all of the evidence assembled, will decide whether or not the appeal is upheld);

- (c) Having heard evidence from the student, the Panel invites the Chair of the University Research Degrees Committee, the Dean of School (or School Research Committee Chair/ADR), Principal Supervisor, School PGR Director and others that it chooses, to submit evidence and respond to questions from the Panel of Enquiry;
- (d) No other persons have the right to attend, but the Panel can, at its discretion, receive evidence from, and invite attendance by, any other individual (e.g. other supervisors);
- (e) A Panel is not analogous to a court of law and is not governed by court procedures. However, the principles of natural justice apply to all the Panel's proceedings;
- (f) The Panel considers both written and oral evidence in reaching an outcome.

B.b.3.8 The Panel of Enquiry will submit (for approval) a written report of its findings to the Academic Board (via the Vice-Chancellor) as soon as possible, and normally not later than 10 working days after it has met. All written reports produced by Panels of Enquiry will:

- include a statement of whether, in its judgement, the appeal is upheld or not;
- be sufficiently full to reflect the reasoning by which the conclusions and recommendations have been reached;
- be sufficiently comprehensive to allow the University Research Degrees Committee and Academic Board to use it as a basis for reconsideration or review of the case;
- be compiled with all due regard for confidentiality, ensuring anonymity of all participants.

Once the Report has been approved by Academic Board, or by the Vice-Chancellor on its behalf, then copies are sent to the appellant, all witnesses, as well as the Head of the Graduate School, the School Registrar and the Director of Academic Services.

B.b.3.9 If the Panel of Enquiry finds against the student, the University Secretary will inform the student that the appeal has been unsuccessful. If the Panel of Enquiry finds in the student's favour, the case is referred back to the University Research Degrees Committee, requiring them to reconsider the case and take account of the Panel of Enquiry's findings. The final decision on the candidate's position must, however, rest with the University Research Degrees Committee.

B.b.3.10 The Panel of Enquiry may recommend its Chair, or another member of the Panel

acting on behalf of the Chair, to attend the meeting of University Research Degrees Committee at which the disputed case is to be reconsidered, in order to:

- ensure that the conclusions and views of the Panel of Enquiry are fully understood by the University Research Degrees Committee; and
- act as an observer, to satisfy Academic Board that all relevant factors have been taken into account.

B.b.3.11 With regard to those cases that are referred back to University Research Degrees Committee for reconsideration, the University Research Degrees Committee is required to reconsider the case within 10 working days, taking careful account of the findings and conclusions of the Panel of Enquiry; and then to provide a report back to the Panel of Enquiry stating the action which has been taken in the light of the appeal outcome. Academic Board expects that the decision then arrived at by the University Research Degrees Committee will represent justice being done in respect of the appeal. The appeals procedure will therefore, at this stage, terminate and the University Secretary will inform the student of the outcome, and issue a 'Completion of Procedures Letter'.

B.b.4 INDEPENDENT ADJUDICATION

B.b.4.1 Under the Higher Education Act 2004 provision is made for reference of student complaints to the Office of the Independent Adjudicator (OIA) for Higher Education when the University's internal student complaints processes have been exhausted, but the student remains dissatisfied with the outcome.

B.b.4.2 On completion of the University's internal Stage 2 Appeals Procedure a student will be issued with a 'Completion of Procedures Letter' by the University Secretary's Office and provided with details of the services available to the student from the OIA. The Completion of Procedures Letter will:

- provide a description of the complaint
- confirm that the University's internal complaints procedure has been completed
- state the outcome of the internal complaint process
- confirm that the student has the right to take the complaint to the OIA
- indicate how a student can contact the OIA
- stipulate that the OIA will only consider complaints from students within a period of three months from the date of the Completion of Procedures Letter.

B.b.4.3 Further advice and/or assistance concerning the OIA, or in contacting or submitting a complaint to the OIA, may be obtained from the University Secretary's Office or the Students' Union Advice and Representation Centre.