

EXTRACT FROM THE UNIVERSITY GENERAL REGULATIONS 2017/2018

PART B – DECISIONS OF BOARDS OF EXAMINERS: REVIEW AND APPEAL

For the purposes of Part B and for the Appeal Hearing procedure, a reference to a Board of Examiners shall apply also to the College Research Degrees Board, Academic Offences Committee and the University Extenuating Circumstances Panel.

General

On behalf of the University, Boards of Examiners exercise the power to make academic judgments about the attainment of students, their right to progress and their entitlement to have conferred the awards for which they are candidates. The decisions of Boards of Examiners reflect the collective academic experience of the University's teaching staff and the external examiners appointed to the boards. Boards of Examiners take seriously the responsibility to uphold the academic standards of the University.

There are occasions when a student might feel that they wish to dispute the decision of a Board of Examiners. Students are encouraged to raise concerns informally with individuals such as tutors, programme leaders, Academic Officers and staff in Student Services. Frequently matters can be resolved quickly and satisfactorily in this way. When a student is seeking to resolve a dispute informally, those dealing with the student should inform the student about the procedures for review and appeal. Seeking an informal resolution does not take away the student's right to invoke the formal procedure.

Under these regulations, there are two stages to the process in which a student may seek formally to resolve a dispute: by a Review and an Appeal. A student who instigates the Review and Appeal procedures should continue with their studies as normal, including studying for reassessment.

B1 Review

- 1.1 Review is a formal means by which a student may call into question the decision of a Board of Examiners. A student may not lodge an Appeal under section B2 unless a Review has been concluded.
- 1.2 Where a student wishes to be reassured that all material circumstances have been taken into account by the Board of Examiners when it arrived at a decision in his or her case, then a request may be made by the student that the Chair of the Board of Examiners reviews the Board's decision.
- 1.3 Save in exceptional and unforeseeable circumstances, a request for a Review must be made within ten working days of a student being formally notified of a decision of a Board of Examiners. The formal Review request must be lodged on the form provided (available from Secretariat). The form requires the student to set out the reasons for requesting a Review and the remedy they are seeking. The reasons put forward by the student should explain why they believe that had the Board of Examiners been aware of the circumstances set out in the request it would have made a decision which differs from the one it had, in fact, made.
- 1.4 The student must provide all material and evidence that they wish to be considered in support of their Review request at the time that the Review request is made. Matters of contention not raised at the Review stage cannot be introduced at the Appeal stage should the student remain dissatisfied following the outcome of the Review.

- 1.5 A student may not seek an anonymous Review.
- 1.6 A third party may represent the student provided the student gives the University written authority to discuss their personal affairs with that person. A friend, family member or Students' Union representative may, for example, act as a third party. The student will need to ensure that the representative is thoroughly briefed, kept fully informed and is readily accessible. The University will not correspond with both the student and the representative.
- 1.7 On receipt of the Review Request, if the student has raised extenuating circumstances these will be considered first by the Extenuating Circumstances Panel which will determine their validity. The outcome of the Extenuating Circumstances Panel will then be communicated to the Chair of the Board of Examiners and forwarded with the Review Request. If there are no extenuating circumstances the Academic Appeals Officer will forward the request to the Chair of the Board of Examiners, who shall review the Board's decision. The Review should normally be completed within 20 working days. In exceptional circumstances it may not be possible to complete the Review within this timeframe. In such a case, at the end of the 20 working day period the Chair of the Board of Examiners must either:
- (i) inform the Academic Appeals Officer in writing that the Review may proceed directly to the Appeal stage, or
 - (ii) submit in writing to the Academic Appeals Officer the reasons why the Review could not be completed within the 20 working day time limit to agree an extension of no more than 15 working days.

If a Review has not been completed and the outcome communicated to the Academic Appeals Officer following an extension of no more than 15 working days, the student will have the right to proceed directly to the Appeal stage.

In conducting a Review, the Chair of the Board of Examiners has the discretion to make enquiries of such persons, including the student, tutors, programme leaders and unit co-ordinators as he or she deems necessary.

- 1.8 In deciding the outcome of the Review, including the nature of the resolution to be offered to the student, the Chair of the Board of Examiners shall take into account the need to ensure the integrity of the standards of the University's awards and the need to guarantee fairness to all students in the assessment process.
- 1.9 The Chair of the Board of Examiners shall notify the Academic Appeals Officer of the outcome of the Review, giving reasons for the decision. This decision shall be notified to the student in writing by the Academic Appeals Officer. The decision shall also be notified to the Board of Examiners.
- 1.10 A student who is dissatisfied with the outcome of a Review may apply to lodge an Appeal.

B2 Appeal

- 2.1 Only a student who is dissatisfied with the outcome of a completed Review may apply to lodge an appeal except where the Review has not been completed within the timescale stipulated in B1.7.

2.2 A student may lodge an Appeal on the following grounds only:

- (a) that there were extenuating circumstances adversely affecting the student's performance which for valid reason the student did not make known to the Extenuating Circumstances Panel at the appropriate time either in sufficient detail or at all. Normally, the only acceptable valid reasons will be that the student was unable or incapable of bringing the circumstances to the Panel's attention. The student must provide documentary evidence to support their claims.
- (b) that there was a procedural irregularity in any part of the assessment or other relevant process to which the claim relates, including the interpretation and other application of the relevant regulations.
- (c) that there is evidence of prejudice or of bias.
- (d) that there was an error in the calculating or recording of the marks upon which the original decision was made.

The following shall not be considered as grounds for Appeal:

- (i) the retrospective reporting of extenuating circumstances which a student might reasonably have been expected to disclose to the Extenuating Circumstances Panel.
- (ii) marginal failure to attain a higher degree classification.
- (iii) an appeal against the academic judgement of internal or external examiners.
- (iv) retrospective complaints against the standard of tutoring etc. These must be made before the results of Boards of Examiner deliberations and cannot be used to lever an appeal against the judgement of the Board.

2.3 Disagreement with a mark or a grade cannot itself constitute grounds for appeal.

2.4 Where a Review has not been completed within the timescales set out in B1.7 above, the Academic Appeals Officer will advise the student in writing of his or her right to lodge an Appeal as provided under B2.6. The Appeal will then proceed in the prescribed manner.

2.5 Anonymous appeals are not permitted. See B1.6 regarding third party representation.

2.6 An appeal must be lodged with the Academic Appeals Officer within ten working days of the student's receipt of the letter notifying them of the outcome of the Review. The appeal must be lodged on the form provided (available from Secretariat) and must include:

- (a) a precise identification of the decision(s) of the Board of Examiners against which the appeal is lodged;
- (b) a precise identification of the formal grounds of appeal (i.e. B2.2 above);
- (c) a statement of the appellant's case;

- (d) evidence establishing that an appeal is warranted. Whenever possible, such evidence must be in documentary form, provided either when the appeal is lodged or, only if it is not available at the time, as soon as possible thereafter. Students may not introduce at the appeal stage any evidence that was available to them but had not been previously submitted at the Review stage.

B3 Lapsed Appeals

- 3.1 Where the appeal is defective or deficient in terms of the grounds cited or the evidence submitted, the Academic Appeals Officer shall write to the student advising that the appeal may not proceed until such deficiencies or defects have been remedied. The student will have 20 working days to make a response to the Academic Appeals Officer that adequately resolves such deficiencies or defects.
- 3.2 Where there are circumstances beyond the control of the appellant which prevent him or her from making a full response within 20 working days, the appellant must provide evidence of those circumstances to the Academic Appeals Officer in order to request an extension of the time limit.
- 3.3 If, after the 20 working day time limit (or, if granted, the extended time limit) has expired:
- (a) the appeal does not conform with the permitted grounds as specified in B2.2,
 - or
 - (b) the requirements specified in B2.6 are not met the Academic Appeals Officer shall write to the student to advise that the appeal has lapsed and will not be considered further.
- 3.4 An appellant whose request for an extension is not granted by the Academic Appeals Officer may request that the Chair of Academic Board or nominee reconsiders that decision. The Chair of Academic Board or nominee shall satisfy him or herself that the decision of the Academic Appeals Officer was fair and reasonable.

B4 Determination of the Appeal

- 4.1 Once the documents specified in B2.6 have been supplied, the Chair of the Appeal Board shall be appointed by the Vice Chancellor. The Academic Appeals Officer shall invite the Chair of the Board of Examiners to submit any additional information or evidence in support of the Review decision.
- 4.2 When appointed, the Chair of the Appeal Board will, within 10 working days, satisfy himself or herself that the formal requirements for the lodging of an Appeal have been met. This does not include a review of the substantive case.
- 4.3 If, following scrutiny of the records and evidence relating to the Review and Appeal, the Chair considers that the formal requirements for lodging an Appeal and/or the grounds for Appeal have not been satisfied, the Appeal will not be considered further. The Academic Appeals Officer shall advise the student of this in writing.
- 4.4 In making their decision as to whether the formal requirements for lodging an Appeal and/or the grounds for Appeal have been satisfied, the Chair of the Appeal Board may seek further information or clarification from the Chair of the Board of Examiners through the process of Referral Back.

B5 Referral Back

- 5.1 In referring the matter back to the Chair of the Board of Examiners, the Chair of the Appeal Board may require such questions to be answered as they deem fit, including whether the case may be resolved.
- 5.2 The Chair of the Board of Examiners shall make a response to the Chair of the Appeal Board within 10 working days. If the response includes a proposed resolution the Chair of the Appeal Board shall put this to the appellant for decision on the basis that the resolution will constitute full and final settlement of the case. Alternatively, the Chair of the Appeal Board shall consider the information received from the Chair of the Board of Examiners and decide whether the formal requirements for lodging an Appeal have been met. If they have not been met, the appellant shall be issued with a Completion of Procedures letter. If they have been met, the Academic Appeals Officer shall offer to arrange a formal hearing of the appeal.
- 5.3 The Chair of the Appeal Board will be assisted by the University Secretary and the Academic Appeals Officers in matters of procedure and practice.

B6 Arrangements for an Appeal Hearing

- 6.1 Where there are sufficient grounds for an Appeal the Academic Appeals Officer shall arrange an Appeal Hearing which shall normally be held:
- (a) within 20 working days of the appellant being notified that the Chair of the Appeal Board does not consider that their case will be resolved by referral back to the Chair of the Board of Examiners; or
 - (b) within 20 working days of the appellant notifying the Academic Appeals Officer that referral back has not produced an outcome that is satisfactory to them.
- 6.2 The procedures for an Appeal Hearing are detailed on page 18.

B7 Frivolous and Vexatious Review Requests and Appeals

- 7.1 The University reserves the right to consider a Review or Appeal frivolous or vexatious as set out below; this list is not exhaustive:
- (a) Reviews or Appeals that are obsessive, persistent, harassing, prolific, and repetitious;
 - (b) Insistence upon pursuing unmeritorious Reviews or Appeals and/or unrealistic outcomes beyond all reason;
 - (c) Insistence upon pursuing meritorious Reviews or Appeals in an unreasonable manner;
 - (d) Reviews or Appeals that are designed to cause disruption or annoyance.
- 7.2 The Academic Appeals Officer shall decide whether a Review or Appeal is frivolous or vexatious taking into account all the circumstances of the case.
- 7.3 The Academic Appeals Officer shall write to the student with a full explanation as to why they are no longer prepared to engage with the student in relation to their case.

- 7.4 If a student wishes to challenge the Academic Appeal Officer's decision they must submit this in writing to the University Secretary who shall review the information on the file, including any representations from the student, and decide whether the challenge is upheld or not.
- 7.5 The decision of the University Secretary is final and, if the challenge is not upheld, a Completion of Procedures letter will be issued to the student. If the student remains dissatisfied with the University's final decision then they may submit a complaint to the Office of the Independent Adjudicator for Higher Education.
- 7.6 A student who has submitted a frivolous or vexatious Review or Appeal may be referred to the Head of School Stage of the Student Conduct and Disciplinary Procedures. Students whose programme of study leads to professional registration may be referred to the first formal stage of the Fitness to Practise Regulations.

B8 Confidentiality of Review Requests and Appeal

If information within a Review Request or Appeal is to be kept confidential, it is the responsibility of the student to make this clear to the Academic Appeals Officer on submission of the forms. In exceptional circumstances it may be difficult for confidentiality to be respected, for example, where a criminal offence has been disclosed. Additionally, in some circumstances the demand for confidentiality may make it difficult for the University to assist students with the management of their case.

Important: the Office of the Independent Adjudicator for Higher Education (HE)

In accordance with the Higher Education Act 2004, the University subscribes to the rules and procedures of the Office of the Independent Adjudicator for HE (the OIA). The OIA provides an independent scheme for the review of complaints by students against higher education institutions at the stage where the internal complaints procedures have been exhausted. The OIA's definition of 'complaints' includes complaints about the final decision of a higher education institution's disciplinary or appeal body. It is open to students of the University of Lincoln to ask the OIA to review a final internal disciplinary or appeal decision.

Full information about OIA procedures is available from the University of Lincoln's Advice Service, Students' Union, the University Secretary or the OIA website (www.oiahe.org.uk).

THE APPEAL HEARING

1. The Appeal Board shall comprise:
 - (a) a Chair who shall be the Vice-Chancellor or nominee;
 - (b) two full-time members of teaching staff of the University drawn from a panel established for this purpose by Academic Board;
 - (c) a student of the University nominated by the President of the Students' Union.

The Appeal Board shall have a Secretary.

2. No member of the Appeal Board shall be a member of the subject or award team, School/College, or the Board of Examiners for the award to which the appeal relates or be a student member of the award.

The Secretary of the Appeal Board shall be the Academic Appeals Officer or other nominee of the Appeal Board Chair.

3. The Chair of the Board of Examiners may be required by the Appeal Board to attend or nominate a representative. The appellant shall attend the Appeal Hearing.

The Secretary shall give the appellant and the Chair of the Board of Examiners or nominee, if they are required to attend, reasonable notice of the hearing.

4. The appellant and the Chair of the Board of Examiners shall have the right to submit any further documentary evidence to the Appeal Board via its Secretary.

5. In reasonable time before the hearing of the Appeal the Secretary shall circulate to the Appeal Board, the appellant, the Chair of the Board of Examiners (or nominee) and to any other person the Secretary deems appropriate the following documents:

- (a) the assessment regulations for the scheme or award;
- (b) the appellant's form of Appeal;
- (c) any documentary evidence.

The Appeal Board shall have access to relevant minutes of the Board of Examiners and to the appellant's assessment and examination marks.

6. The appellant shall have the right to nominate a 'friend' who shall be a member of staff or student of the University, an officer of the Students' Union or a member of staff from the institution which is delivering the student's programme, and who may speak on the student's behalf.
7. Both the appellant and the Chair of the Board of Examiners shall have the right to call witnesses.
8. The appellant shall have the right to opt for an 'open' or 'closed' hearing. The appellant shall be invited by the Secretary to indicate which they wish to opt for and must make his or her wishes known at least seven days before the hearing.

Proceedings at an Appeal Hearing¹

9. If the appellant has opted for an 'open' hearing the Appeal Board shall incorporate the following:
 - (a) The appellant shall present their case first. If the appellant is accompanied by a friend, the friend may present the case on the appellant's behalf. If the appellant wishes to call any witnesses they should be called to give evidence at this stage.
 - (b) The Appeal Board and the Chair of the Board of Examiners shall then be entitled to ask questions of the appellant and/or friend and any witnesses.
 - (c) Any witnesses of the appellant shall normally at this stage withdraw.
 - (d) The Chair of the Board of Examiners (or nominee) shall next present the case of the Board of Examiners. If the Chair of the Board of Examiners wishes to call any witnesses they should be called to give evidence at this stage.
 - (e) The Appeal Board and the appellant (and/or friend) shall then be entitled to ask questions of the Chair of the Board of Examiners (or nominee) and any witnesses.
 - (f) Any witnesses of the Chair of the Board of Examiners should normally at this stage withdraw.
 - (g) The Chair of the Board of Examiners (or nominee) should next summarise the case of the Board of Examiners.
 - (h) The appellant and/or friend should then summarise the case of the appellant.
 - (i) The Appeal Board shall then reach its decision in private.
10. If the appellant has opted for a 'closed' hearing the procedure to be followed shall incorporate the following:
 - (a) The appellant shall present their case first not in the presence of the Chair of the Board of Examiners. If the appellant is accompanied by a friend the friend may present the case on the appellant's behalf. If the appellant wishes to call any witnesses they should be called to give evidence at this stage.
 - (b) The Appeal Board shall then be entitled to ask questions of the appellant and/or friend and any witnesses.
 - (c) The appellant, friend and witnesses shall at this stage withdraw.
 - (d) The Chair of the Board of Examiners (or nominee) shall next present the case of the Board of Examiners. If the Chair of the Board of Examiners wishes to call any witnesses they should be called to give evidence at this stage.
 - (e) The Appeal Board shall then be entitled to ask questions of the Chair of the Board of Examiners (or nominee) and any witnesses.

¹ See also Section M – Audio Recordings of Meetings

- (f) The Chair of the Board of Examiners (or nominee) and witnesses shall at this stage withdraw.
 - (g) The Appeal Board shall then reach its decision in private. The Appeal Board may call back the appellant or Chair of the Board of Examiners (or nominee) or witnesses to clarify the evidence at this stage.
11. If both the appellant and the Chair of the Board of Examiners (or nominee) are in agreement at the outset of an 'open' hearing, the hearing can be conducted as a 'closed' hearing. Once a hearing has commenced on either an 'open' or 'closed' basis it must continue in that mode except in the most exceptional circumstances and with the full agreement of the appellant, Chair of the Board of Examiners (or nominee) and the Appeal Board.
 12. The Appeal Board shall either uphold or not uphold the appeal and, in addition, make any such recommendations as it considers appropriate. The decision of the Appeal Board shall be announced orally to the appellant and the Chair of the Board of Examiners (or nominee) at the conclusion of the hearing and be communicated in writing normally within 10 working days to them and be reported to the next meeting of Academic Board. Neither the appellant nor the Chair of the Board of Examiners (or nominee) shall comment to the Appeal Board when its decision is announced.

Consequences of an Appeal Hearing

13. If an appeal is not upheld the original decision of the Board of Examiners shall stand.
14. If an appeal is upheld the Board of Examiners shall meet as soon as reasonably possible to reconsider the matter as recommended by the Appeal Board. The Board of Examiners shall report its findings to Academic Board.
15. If the Board of Examiners upholds its original decision the matter shall be referred to Academic Board for final decision solely on the basis of written submission from the Appeal Board and the Board of Examiners. No person who has been involved in the appeal hearing or who is a member of the Board of Examiners shall take any part in the proceedings of Academic Board in relation to this adjudication.
16. If an appeal is upheld at this stage, the University may reimburse the student or their 'friend' (if applicable) for reasonable and proportional incidental expenses incurred in attending the Appeal Board meeting. Students who remain dissatisfied with the outcome shall be issued with a completion of procedures letter and referred to the Office of the Independent Adjudicator for Higher Education.

Confidentiality

17. Those involved in Appeal Hearings shall be impartial and, with the exception of the decision reached, shall treat all aspects of the case as confidential.

Attendance at meetings

18. If, for good reason, a student or their friend (if applicable) is unable to attend an Appeal Hearing at an agreed time and place, the University shall reconvene the meeting on one occasion. If a student or their friend (if applicable) is unable to attend the rescheduled meeting, the Appeal Hearing may take place *in absentia*.