

APPEALS POLICY

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Approved by	Quality Assurance Committee
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UKQC Advice and Guidance	<ul style="list-style-type: none">• Concerns, Complaints and Appeals
Reference from the Awarding Body	<ul style="list-style-type: none">• Appeals Policy of Bath Spa University
Other reference Points	<ul style="list-style-type: none">• ESL Quality Assurance Manuals• Student Handbooks/ Course Handbooks• Academic Misconduct Policy of Bath Spa University• Mitigation Circumstance Policy of Bath Spa University

1. Introduction

In order to maintain the academic integrity of awards, Elizabeth School of London is dedicated to providing a mechanism for students to appeal decisions that affect their progress or assessment outcomes, and follows and implements the partner University's Appeals Policy.

The purpose of this procedure is to provide a formal means through which students can request a review of assessment, mitigating circumstances or academic misconduct penalty decisions. Appeals of assessment decisions follow Stage One and Two of the procedure. Appeals of Academic Misconduct and Mitigating Circumstances are referred to Stage Two of the procedure (as students will have submitted their cases to the relevant Panel which forms Stage One of these aligned procedures). The procedure is designed to be fair, efficient and transparent, and comprises two stages:

	Assessment decisions	Mitigating Circumstances Decisions	Academic Misconduct penalties
Stage One: Formal Appeal	Appeals Procedure Stage One ¹ (section 10 below)	Mitigating Circumstances Panel	Academic Misconduct Panel
Stage Two: Review	Appeals Procedure Stage Two (section 11 below)		

2. Advice and guidance

2.1 Students are encouraged to seek advice both prior to and during the use of this procedure from any of the following sources:

- Personal tutor or appropriate supervisor
- Students' Representative
- Student Welfare

Students are encouraged to seek clarification or discuss any concerns about Final Award Board/ Examiner decisions with their academic tutor, course leader or staff within Student and Registry Services or the Graduate Office for Research Degrees before considering whether to submit a formal appeal.

¹ Eligible appeals may either be expedited or considered by the Appeals Panel as outlined in the procedure below

3. Scope of the Appeals Procedure

3.1 This procedure can be used by students on their programmes for appeals against the decisions of:

- Final Award Boards relating to results, outcomes, progression and classification (Stage One and Stage Two)

- The Mitigating Circumstances Panel regarding claims for mitigating circumstances

(Stage Two only)

- The Academic Misconduct Panel (Stage Two only)

3.2 If an Academic Appeal is submitted whilst a different procedure or process is ongoing regarding associated matters (such as a student complaint or mitigating circumstances), ESL will advise the student on whether such processes will take place simultaneously or whether one procedure may be temporarily suspended if dependent on the outcomes of the other procedure.²

3.3 Similarly, should a submitted appeal be more appropriately dealt with via an alternative procedure this may be referred to the relevant policy or procedure.

4. Group Appeals, Third Party Appeals, and Anonymous Appeals

4.1 This procedure is not intended to be used by a third party making an appeal on behalf of a student. Where the issues raised in an appeal affect a number of students, those students can submit an appeal as a group appeal. In such circumstances, in order to manage the progression of the appeal, the group should nominate one student to act as group representative. In such cases, ESL will normally communicate through the nominated student representative only and they will be expected to liaise with the other students throughout this procedure.

4.2 ESL'S relationship is with the student, irrespective of who pays the student's fees, as such where it is appropriate to make an appeal, students should raise the matter themselves unless ESL is satisfied that there are exceptional reasons why they may be unable to do so. Under data protection legislation, ESL cannot deal with third party appeals without the written permission of the student (this includes appeals made by a student's parent(s) or spouse). In such cases, evidence will be required that a third party has been formally authorised or instructed to act on a student's behalf. Whilst correspondence will normally then be copied to the student (unless specifically directed to the contrary by the student), ESL will only deal with the single individual authorised to act on the student's behalf in respect of an appeal. Where a student has nominated a third party to act on their behalf, they will still be expected to engage with the procedure when required to allow for full and thorough consideration of the appeal.

² For example, successful consideration of submission of late mitigation circumstances may impact on the Assessment Board decision and therefore negate the need for an appeal and accordingly the mitigation circumstances process may need to be followed first. By contrast, an associated complaint may need to consider the impact of the issue raised by the student and accordingly an appeal outcome may be required therefore, considering a complaint.

4.3 ESL is unable to consider anonymous appeal under this procedure as we are unable to complete an appropriately robust investigation. Any anonymous appeals that are submitted will be recorded and may be notified to relevant staff.

5. Frivolous and vexatious appeals

5.1 ESL expects that students will not engage in making frivolous or vexatious appeals. Examples of frivolous or vexatious appeals include but are not limited to:

- appeals which are obsessive, harassing or repetitive
- insistence on pursuing non-meritorious appeals and/or unrealistic outcomes
- insistence on pursuing what may be a meritorious appeal in an unreasonable manner
- appeals which are designed to cause disruption or annoyance

5.2 ESL may decline to consider an appeal if it considers it to be frivolous or vexatious and in these circumstances the student will receive a written explanation of the reasons. Where a student has made an appeal of this nature, or used false information, ESL may consider taking action under the Disciplinary Procedure.

6. Victimisation: declaration of intent

6.1 Subject to the above, any student who submits an appeal or seeks to use this procedure will not be treated less favourably in ESL life as a result of action taken to pursue an appeal. Without prejudice to the outcome of an appeal, a student may continue as a student and make use of ESL facilities whilst their appeal is being heard. Therefore, any student making an appeal should normally continue with their studies as normal, including studying for any retakes.

7. Confidentiality, Record Keeping, and Data Protection

7.1 ESL will do all within its power to limit the disclosure of information to those who need to consider or respond to the case as is consistent with conducting a fair process and the implementation of any recommendations following consideration of an appeal. However, if a student name another member of ESL, then the person(s) named will normally have the right to be able to reply to the appeal.

7.2 During the course of the procedure, students will be informed of all evidence considered and the rationale for decisions. For cases considered by the Appeals Panel a report summarising the discussion and the rationale for the decision will be provided.

7.3 ESL will record the outcomes of appeals to enable analysis and to address any systemic issues identified.

8. Timelines

8.1 This procedure outlines timescales which apply to both ESL and the student. Only in circumstances that ESL considers to be exceptional will appeals be accepted outside these timescales.

8.2 In line with the policies of our partner university, ESL endeavours to respond within the timeframes that are outlined. Where this is not possible, any delay should be communicated to the student.

9. Appeal outcomes

9.1 Where an appeal is upheld, the appeal may change an Examiner decision by one step, that is to change the status of 'failed' to 'referred' or from 'referred' to 'deferred' for Taught Programmes. Marks will not be raised as part of the appeals process (unless an administrative error confirms an error in the recorded mark) and will reflect the student's attainment.

9.2 Where an appeal is upheld in whole or in part, the Appeals Panel will require the Chair to review its original decision in light of the findings of the procedure. In reviewing its decision, the Chair may consult other members of the panel and the External Examiner as appropriate.

9.3 At each stage of the procedure, students will receive the reasons for the outcome.

10. Stage One: Formal Appeal

10.1 Appeals against the examiners decisions can only be made at Stage One on the following grounds (or categories) and students must frame any appeal by outlining how the appeal relates to one or more of the following grounds:

- a) That there is evidence of an administrative error in the assessment process, to the extent that the assessment outcome would likely have been different had the error not occurred.³
- b) That there is evidence that the assessment of the programme of study was not carried out in accordance with the relevant regulations or published programme material.
- c) That there is evidence of demonstrable prejudice or bias against the student by one or more examiners.⁴

10.2 No other grounds will be accepted including:

- Academic judgement - this refers to judgement that is made about a matter where only the opinion of an academic expert will suffice. For example, a judgment about assessment, assessment criteria, a degree classification, fitness to practise, research methodology or course content/outcomes. (This means that a mark or outcome cannot be challenged on the grounds that, in the opinion of the student, it is not what the work deserved). The decision as to whether an accusation of academic misconduct is established is also deemed academic judgement but students may appeal against the penalty of an academic misconduct on the grounds listed in section 11.
- marginal failure to attain a higher class of degree unrelated to the grounds specified in 10.1 above.
- admissions decisions - please refer to the Admissions Appeals Policy

³ This may include but is not restricted to errors on the examination paper, missing marks or significantly different marks to those received in feedback.

⁴ An appeal on the grounds of prejudice or bias must be based on evidence or opinion.

- the delivery of teaching or other services provided by ESL - please refer to the Complaints Procedure
- A failure on the student's part to submit work or mitigating circumstances – please refer to the Mitigating Circumstances Policy.

10.3 ESL must receive the Stage One appeal via the Appeals Form and provide corroborative supporting evidence within 5 working days of the date of being notified of the decision against which the student wishes to appeal.⁵

10.4 Submissions should be as detailed and precise as possible, clearly explain the nature of the appeal and include references to any evidence provided.

10.5 Students will normally receive a written acknowledgement within 5 working days and an initial response within 10 working days. Whilst it is anticipated that the Appeals Panel will normally be held within 25 working days and a written response issued within 30 working days, this period may need to be extended in certain circumstances such as where staff necessary for the consideration of the appeal are unavailable. In such instances, students will be informed.

10.6 Appeals will initially be considered by the Programme Leader or nominee who will consider whether grounds for appeal have been established.

10.7 Should an appeal not be eligible for consideration under this procedure the student will normally receive written confirmation within 10 working days outlining why the appeal is not eligible and what further action the student can take. the Programme Leader or nominee may summarily dismiss an appeal if:

- It does not conform to the permitted grounds of appeal
- It was submitted out of time (without an exceptional reason as per 8.1)
- There is on the face of it no evidence to support the grounds for appeal.

Students may use the review stage of the appeals process to challenge the decision to summarily dismiss an appeal if the grounds for review have been met.

10.8 All eligible appeals will be sent to the Head of Academics or nominee to complete formal responses to the issues identified in the student appeal. The Head of Academics or nominee has the option to recommend that the appeal is upheld at this stage if their findings demonstrate clear evidence to corroborate the student's case in order to expedite the appeal decision for the student. In such cases, students will be informed that their appeal has been successful and the matter will be referred to the Appeal Panel and will be invited to attend. The response from the Head of Academics/Panel will be provided to the student.

10.9 The terms of reference of the Appeals Panel shall be:

⁵ Resit students in particular are encouraged where possible to submit appeals within 10 working days due to the timescales of progression to the next stage of study.

- to make a judgment on the appeal and if appropriate proposals or recommendations for further actions.

10.10 The membership of the Appeals Panel shall be:

- A Chair appointed by the Head of Academics from the senior staff;
- Three members of academic staff
- Student Representative(s).

10.11 The possible decisions of the Panel are as follows:

- The appeal is upheld
- The appeal is not upheld

The Panel may also make a recommendation as outlined in section 9.

10.12 The Appeals Panel will make its deliberations in private and an outcome may be provided to the student on the day or communicated within 5 working days.

10.13 Students will be offered the opportunity to attend the Appeals Panel. Students are encouraged to be accompanied (but not represented) to meetings relevant to the process by a friend (normally another enrolled student of ESL) or Students' representative. The friend may support the student, but may not act as the student's representative. We do not normally permit legal representatives at any meetings though this may be allowed in exceptional circumstances at the discretion of the Chair where fitness to practice a profession is at stake and must be requested in writing in advance. If the student does not wish to or is unable to attend the meeting of the Appeals Panel, the Panel will consider the appeal on the basis of the information submitted by the student. The outcome of the appeal will be based on evidence and will not be influenced by a students' decision to attend or otherwise.

10.14 The Appeals Panel will give initial consideration to the appeal on the basis of the appeal submitted by the student and the responses provided by the Head of Academics or nominee. The student will be invited into the panel to provide a supporting statement and panel members may ask the student questions arising from the appeal or their statement.

10.15 Following the meeting of the Appeals Panel, the student will receive an Outcome Letter including the reasons for the decision normally within 5 working days of the Panel. The student will be informed of the outcome of any subsequent review by the Head of Academics and the reasons for that outcome within 5 working days.

11. Stage Two: Review

11.1 A review of the findings of the processes below may be allowed:

- Stage One appeals outcomes
- Mitigating Circumstances Panel decisions
- Penalty of an Academic Misconduct Panel decision

11.2 A request for review must be submitted in writing (together with a copy of the original appeal or documentation and the Stage One or Panel outcome letter) and received by the University Secretary's Office within 10 working days from the date of written notification of the Stage One or Panel outcome. The grounds for review must be clearly stated as part of the application. After this deadline Student and the programme leader or nominee will notify the student that the appeal has been closed.

11.3 The University Secretary or their nominee may allow a review to proceed at their discretion if they are satisfied that either or both of the following criteria apply:

- a) that there is new evidence that could not have been, or for good reason was not, made available at the time of the Appeals Panel/ Academic Misconduct Panel/ Mitigating Circumstances Panel and that sufficient evidence remains that the case warrants further consideration;
- b) that evidence can be produced of significant procedural error on the part of ESL considering the appeal/ academic misconduct/ mitigating circumstances and that sufficient evidence remains that the case warrants further consideration.

11.4 The Programme leader or nominee will take into account the overall reasonableness of the Stage One or Panel outcome and has discretion to take into account grounds (including grounds of compassion) other than those stated above in deciding whether to allow a review.

11.5 If The Programme leader or nominee decides to allow a review they will appoint a Review Panel. They will normally advise the student, in writing, of their decision on the review application within 10 working days of its receipt. If a review application is rejected reasons will be given. Should a review be granted, the Review Panel will normally complete their review within 20 working days.

11.6 The terms of reference of the Review Panel shall be:

- to consider review cases referred to it by the Programme leader or nominee and to determine whether the evidence is of sufficient significance to cast doubt upon the reliability of the decision arrived at during Stage One of the relevant procedure;
- if the conditions of (a) are met, to make a judgment on the case and if appropriate proposals or recommendations for further actions.

11.7 The membership of the Review Panel shall be:

- two members appointed by the Head of Academics from the senior staff, one of whom shall act as Chair;

- Student Representative or nominee

11.8 No member of the Review Panel will be a member of staff from a department of ESL previously involved in the case, or someone who has been directly involved in the case.

11.9 The possible decisions of the Panel are as follows:

- the Panel has upheld the decision of the Appeals Panel/ Academic Misconduct Panel/ Mitigating Circumstances Panel; or

- the Panel has upheld the decision of the Appeals Panel/ Academic Misconduct Panel/

Mitigating Circumstances Panel but has made recommendations for further action or agreed a substitution of the proposed resolution; or

- the Panel has not upheld the decision of the Appeals Panel/ Academic Misconduct

Panel/ Mitigating Circumstances Panel and has made recommendations for further action.

11.10 Once the Panel's review has been concluded, a Stage Two Outcome Letter will be sent to the student informing them of the Panel's decision and any recommendations for further actions relating to the appeal. The student will also receive a Completion of Procedures letter to state that they have completed the internal appeals procedures of ESL.

12. Office of the Independent Adjudicator for Higher Education (OIA)

12.1 If, after ESL's internal procedures have been exhausted, the student is dissatisfied with the outcome they may make a complaint to the Office of the Independent Adjudicator (OIA), subject to the rules of the OIA's independent complaints scheme.

12.2 Once ESL's procedures have been exhausted, ESL will issue a "Completion of Procedures" letter, as outlined above. Completion of procedures letters will automatically be issued at the end of Stage Two but can be requested at other stages although the letter will outline that the student has not completed the internal processes. Students must apply to the OIA within twelve (12) months of the issue of this letter if they wish to make a complaint. For information on how to submit a complaint to the OIA, please refer to the OIA's website: www.oiahe.org.uk.

