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QAA 194 10/2007

**Code of practice for the assurance of academic
quality and standards in higher education**

**Section 5: Academic appeals and student complaints
on academic matters - October 2007**

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First published 2000
Second edition 2007

ISBN 978 1 84482 748 0

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Printed copies of current publications are available from:
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Registered charity numbers 1062746 and SC037786

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Foreword

1 This document is the second edition of a code of practice for academic appeals and student complaints on academic matters in United Kingdom (UK) higher education institutions. It is one of a suite of interrelated documents which forms an overall *Code of practice for the assurance of academic quality and standards in higher education* (the *Code of practice*) for the guidance of higher education institutions subscribing to the Quality Assurance Agency for Higher Education (QAA) and other bodies offering UK higher education.

2 The overall *Code of practice* and its 10 constituent sections were originally prepared by QAA between 1998 and 2001 in response to the reports of the National Committee of Inquiry into Higher Education and its Scottish Committee (the *Dearing* and *Garrick Reports*). The *Code of practice* supports the national arrangements within the UK for quality assurance in higher education. It identifies a comprehensive series of system-wide principles (precepts) covering matters relating to the management of academic quality and standards in higher education. It provides an authoritative reference point for institutions as they consciously, actively and systematically assure the academic quality and standards of their programmes, awards and qualifications.

3 The *Code of practice* assumes that, taking into account principles and practices agreed UK-wide, each institution has its own systems for independent verification both of its quality and standards and of the effectiveness of its quality assurance systems. In developing the *Code of practice*, extensive advice has been sought from a range of knowledgeable practitioners.

4 The *Code of practice* does not incorporate statutory requirements relating to relevant legislation, for example, the *Disability Discrimination Act (1995)* (as amended). It assumes that institutions have an overriding obligation in all such cases to ensure that they meet the requirements of legislation. However, where a section of the *Code of practice* is related to legislative or similar obligations, efforts have been made to ensure compatibility with them.

5 Since 2001, a number of developments in UK higher education have encouraged QAA to begin a revision of individual sections of the *Code of practice*. In undertaking this task QAA has also decided to review the structure of the sections and, in particular, to replace the original 'precepts and guidance' format with a 'precepts and explanation' approach, using the explanations to make clear why the precepts are considered important and reducing opportunities for a 'checklist' approach to the *Code of practice*. In doing so QAA has sought to meet Recommendation 4 (part 4) of the Better Regulation Task Force in its report *Higher Education: Easing the Burden*, July 2002. This revised section has also taken account of the *Standards and Guidelines for Quality Assurance in the European Higher Education Area*.

6 Revised sections of the *Code of practice* are therefore now structured into a series of precepts and accompanying explanations. The precepts express key matters of principle that the higher education community has identified as important for the assurance of quality and academic standards. Individual institutions should be able to demonstrate they are addressing the matters tackled by the precepts effectively, through their own management and organisational processes, taking account of institutional needs, traditions, culture and decision-making. The accompanying explanations show why the precepts are important.

7 The *Code of practice* is a statement of good practice that has been endorsed by the higher education community. As such it is useful in QAA's audit and review processes that consider the extent to which an institution, in developing and implementing its own policies, has taken account of the *Code of practice* and its precepts.

8 Institutions may find the explanations useful for developing their own policy and for allowing some flexibility of practice at subject level, depending on local needs. It is important to emphasise that the explanations do not form part of QAA's expectations of institutional practice when its teams are conducting audits and reviews.

9 Academic staff in departments and schools do not necessarily need to be familiar with the detail of all of the various sections of the *Code of practice*, although they might well be expected to be familiar with the institutional policies it informs and any parts which are particularly relevant to their own responsibilities.

10 To assist users, the precepts are listed, without the accompanying explanations, in Appendix 1 to this section of the *Code of practice*.

11 The first version of this section of the *Code of practice* was published in March 2000. The publication of this second version follows consultation with staff in institutions, who have helped to update the *Code of practice* to take account of institutions' practical experience of using the guidance contained in its predecessor.

Introduction

12 This section of the *Code of practice* sets out principles for addressing complaints on academic matters (complaints) and appeals on academic matters (appeals) by students in higher education institutions. The term 'institution' is used throughout to refer to all UK bodies providing higher education learning opportunities, qualifications and awards.

13 As this section forms part of the overall *Code of practice*, its remit is necessarily limited to academic appeals and complaints on academic matters. This does not preclude institutions extending these principles to more general complaints, a wider range of appeals or other processes, such as disciplinary or fitness to practise procedures, if this is appropriate to their needs. Indeed, it is recognised that many institutions operate a single complaints system which embraces both academic and non-academic complaints.

14 Where institutions have established separate procedures for handling complaints and appeals, there is likely to be a high level of commonality in the underlying principles of both. For this reason, the precepts and accompanying explanations do not generally distinguish between complaints and appeals although it is recognised that in terms of operational procedures and timescales these may well be distinct in individual institutions.

15 Those referring to this section may find it useful to refer to the following sections, which also contain advice relevant to complaints and appeals:

- *Section 1: Postgraduate research programmes*, precepts 25-27
- *Section 2: Collaborative provision and flexible and distributed learning (including e-learning)*, precept A26
- *Section 3: Students with disabilities*.

Matters relating to complaints and appeals with respect to admission to study are specifically covered in *Section 10: Admissions to higher education*, especially precept 10. Matters relating to

complaints with respect to study and learning in the context of a placement are addressed in *Section 9: Work-based and placement learning*, published in 2007.

Definitions

16 This section of the *Code of practice* defines a 'complaint' as the expression of a specific concern about the provision of a course/module, or a programme of study, or a related academic service. It defines an 'appeal' as a request for a review of a decision of an academic body charged with decisions on student progression, assessment and awards.

17 The term 'student' is used broadly to include those accepted to study with an institution or registered for its awards and those who have recently left an institution. It embraces those studying for taught awards and research postgraduate awards. It uses the term 'institution' to refer to any UK body providing higher education learning opportunities and/or academic awards.

Responsibilities

18 When developing this section, QAA has paid close attention to the responsibilities of institutions delivering learning and research opportunities leading to academic awards, to which this section is primarily addressed. This section recognises that:

- complaints and appeals may be made by individuals or, in appropriate circumstances, collectively
- in resolving complaints and appeals individuals, groups, institutions and other corporate bodies, such as professional, statutory and regulatory bodies, may have overlapping responsibilities
- complaints may be dealt with effectively through informal, as well as formal, means, as may appeals, in their earlier stages.

19 This section also recognises that for complaints and appeals to be resolved well, all the individuals and/or groups involved - staff and students - need to act reasonably and fairly towards each other, and to treat the processes themselves with respect and not abuse them.

20 Complaints and appeals may initially be expressed informally. Moreover, there may be times when what is expressed by the person or persons presenting it as a complaint contains within it an appeal and vice versa. Where this is the case, institutions may find it helpful if their procedures make it possible for complaints and appeals to be reclassified (at whatever stage they may have reached) in consultation with the person complaining or appealing. It should be possible for such a reclassification to trigger an alternative procedure without the student having to initiate this. Institutions may also find it helpful to describe their general approach to handling a complaint and appeal, where these are linked.

21 Complaints and appeals and their outcomes can have significant consequences for the individuals or groups lodging them and for the individuals, institutions and bodies named in, or associated with, them. Institutions will want to ensure that the interests and well-being of all staff and students associated with a complaint or an appeal are properly safeguarded, and there may be a need to provide appropriate support for those associated with a complaint or appeal. At the same time, institutions will recognise that there is a need for sound evidence and procedural fairness.

Changes to legislation

22 Since this section was first published in 2000, the former visitorial system for hearing complaints and appeals in some universities in England and Wales has been superseded. Since the enactment of Section 20 of the *Higher Education Act 2004*, the Office of the Independent Adjudicator for Higher Education (OIA) became established. It receives complaints from students in England and Wales who have exhausted the procedures of the institution with which they are studying, or which is responsible for making their award. These can include complaints relating to academic appeals

and complaints on academic matters, although the OIA will not consider complaints which relate only to the exercise of academic judgement. The OIA makes recommendations on appropriate remedies to governing bodies of qualifying higher education institutions. In Northern Ireland the universities have retained the Visitor as the final stage in their appeals arrangements. See appendix 2 for details of the OIA's remit.

23 With the enactment by the *Scottish Parliament of the Scottish Public Services Ombudsman Act 2002*, and the later extension of its remit to higher education in the *Further and Higher Education (Scotland) Act 2005*, the Scottish Public Services Ombudsman (SPSO) has superseded the Independent Reviewer system, formerly operated for Universities Scotland by the Scottish Faculty of Advocates. The *Further and Higher Education (Scotland) Act 2005* also gives authority to the Scottish Funding Council to take an interest, in some circumstances, in how complaints and appeals are handled by institutions in Scotland. See appendix 3 for details of the SPSO's remit.

24 In addition to the changes described above, legislation enacted in the UK and Scottish Parliaments and European Union (EU) Directives may have implications for institutions' arrangements for handling complaints and appeals. Because this section is likely to remain current for some years, any list of the legislation relevant to this area of the work of institutions can be expected to go out of date, more or less rapidly. Institutions should therefore keep abreast of legislation across the countries of the UK, including applicable EU legislation and current case law.

Precepts and explanations

General principles

1

Institutions have fair, effective and timely procedures for handling students' complaints and academic appeals.

The need for institutions to have transparent, fair and just procedures for dealing with complaints and appeals is key to this precept, as is the need for institutions to ensure fairness to all those who are party to, or named in, a complaint or an appeal. Dealing with a matter fairly and justly includes:

- dealing with a complaint or appeal in ways which are proportionate to the complexity of the issues and the resources of the parties involved
- making provision for informality and flexibility in the proceedings, where appropriate
- ensuring, as far as possible, that the parties involved are on an equal footing procedurally and able to participate fully in the proceedings, including assisting or otherwise facilitating the person making a complaint or an appeal in the presentation of their case
- avoiding delay as far as is compatible with fairness and the proper consideration of the matters involved.

The definitions of a complaint on an academic matter and an academic appeal used in the *Code of practice* are set out in paragraph 16 above. To recap, a 'complaint' is defined as the expression of a specific concern about the provision of a course, or a programme of study, or a related academic service. An 'academic appeal' is defined as a request for the review of a decision of an academic body charged with decisions on student progression, assessment and awards.

Institutions will find it helpful to define what they mean by a complaint and an academic appeal so that staff and students can readily distinguish one from the other. This is of importance whether or not institutions establish separate procedures for handling academic appeals and complaints, but is especially important for those that operate a single process, where different timeframes and different procedures might apply in each case.

Institutions may establish separate procedures for dealing with specific types of complaint such as allegations of harassment or discrimination. In such cases, it is necessary to explain the differences between the types of complaint, the reasons for the different procedures, and the consequences for students and others of following a specific procedure. For complaints, it is also valuable to explain or define how a formal complaint differs from negative or critical feedback and how it is different from 'whistleblowing'.

The scope and grounds on which an academic appeal may be lodged also need to be clearly stated. At the same time, institutions are likely to find it helpful to clarify what, in their arrangements, falls outside the grounds for appeal. For example, most institutions do not allow appeals against the exercise of academic judgement and it would therefore be helpful for institutions to consider what falls outside the scope of academic judgement.

Academic appeals are often part of an institution's overall arrangements for the assessment of students. It is probable, therefore, that they will need to be dealt with in a formal manner and appeal procedures are often set out as part of an institution's official regulations. Complaints can be raised about a wider range of academic matters, and arrangements for handling them may therefore need to be more flexible and responsive. In both complaints and appeals, however, the aim should be to ensure that all the parties have the benefit of access to fair procedures so that the complaint or appeal can be considered fairly. In many cases, it is valuable to have a means of enabling complaints and appeals to be resolved informally, at an early stage before formal procedures are

initiated or completed. Where institutions encourage such informal means, it is important for staff to be briefed on:

- how the informal stages in complaints and appeals procedures relate to the formal stages
- the importance of keeping notes of any discussions and their outcomes
- the limits of their authority to speak on behalf of the institution.

Likewise, where institutional procedures recognise the existence of informal procedures, it is important to be clear about this and for institutions to enable students to be sure at all stages whether a complaint or appeal is being dealt with informally or formally. At the outset it is often helpful to all parties for the institution to invite the person complaining or appealing (or considering making a complaint or appeal) to state the nature of the outcome they are seeking, which might include an apology (if the complaint or appeal is found to be justified).

Some institutions may find it useful and valuable to staff and students to establish an alternative means to resolve complaints, usually via an impartial mediation or ombudsman arrangement, which may be provided by a member or members of the institution. The purpose of establishing such arrangements may be limited to enabling individuals to explore, with an impartial third party, the focus of their complaint and to seek advice, separate from the institution's complaints processes. In other cases, they may be intended to provide a forum for reaching a decision or a solution to the matters. Where institutions establish mediation, ombudsman or other alternative dispute resolution services, they may need to make clear to students and staff the scope of the services, and whether their use is subject to the parties agreeing in advance to accept the solution offered or the findings reached.

Where no informal resolution can be achieved at the outset, it is important that students who wish to pursue a formal complaint or appeal are encouraged to do so in a timely fashion and are referred to the institution's formal procedures.

A key factor in the effective handling of complaints or appeals is the institution's ability to respond in a timely way and bring matters to a conclusion as speedily as possible. It is therefore helpful if procedures and correspondence include indicative timescales for responses. At the same time, it is also important that the timescales set are both fair and realistic, and have sufficient flexibility that they are able to take account of individual circumstances where necessary. Equally, it is important that the institution sets out clearly the responsibilities of the person or persons complaining to respect the procedures and to respond to letters and requests for meetings and information in a timely manner.

While recognising that it is not always possible for institutions to take forward complaints and appeals procedures when key staff are unavailable (for example, when carrying out duties away from the institution, or during closed periods or vacations), nonetheless, it is important that institutions have arrangements in place to take forward matters appropriately and professionally in such circumstances. Likewise, institutions' arrangements need to take into account delays occasioned by necessary absences on the part of students.

2

Institutions' complaints and appeals procedures are approved and overseen at the highest level.

The point of this precept is to remind institutions that ensuring that their complaints and appeals procedures are ratified by their senior academic committee clarifies for students and others that the procedures are those of the institution, and not those of a school or department. In many cases such a senior academic committee will be the institution's Senate, Academic Board or Governing Body.

Making provision for the most senior academic committee to have the authority to monitor the consistent operation of these processes, and to have the ability to review the procedures and amend them, where necessary, to secure fairness, is an important factor in ensuring

transparency. It provides senior members of the institution with direct access to information on the outcomes of its complaints and appeals procedures and how the procedures themselves are working.

3

Institutions ensure that those studying at all levels have the opportunity to raise matters of concern without risk of disadvantage.

This precept is about the need for institutions to state who has access to their complaints and appeals procedures. Those who might reasonably be expected to have access to such arrangements might include:

- individuals accepted to study for an institution's awards (see also precept 10 of the *Code of practice, Section 10: Admissions to higher education*)
- current students, including those studying for an institution's award or qualification
- recent graduates (as defined by the institution)
- students studying with a partner institution in collaborative arrangements.

(See also the *Code of practice, Section 1: Postgraduate research programmes, precepts 26 and 27.*)

Where institutions are involved in collaborative activity, it is important to clarify, for all staff and students, how the complaints and appeals procedures of the respective institutions relate to each other and where a complaint or appeal should initially be directed. In most cases, institutions will want to record such information in the written agreement between them and their partner institutions, as suggested in precept A26 of the *Code of practice, Section 2: Collaborative provision and flexible and distributed learning (including e-learning)*. A normal expectation is that ultimately, a student has the right to appeal, or complain on academic matters, to the institution making their award. In all cases, it is beneficial to specify the basis on which any appeal or complaint will be handled.

Institutions may find it helpful to make provision for complaints or appeals to be made either individually or, if appropriate, collectively and to indicate how any collective action might be managed (for example, through a single spokesperson). See also precept 8, below, 'representation'.

Students may be inhibited from making a complaint or an appeal if they fear that by doing so they may suffer disadvantage (for instance by being treated less favourably than others). For this reason, it is important to maintain confidentiality when receiving or handling a complaint or an appeal, unless disclosure is necessary to enable the complaint or appeal to be progressed. Where this is the case, it is good practice to notify the person(s) complaining or appealing before any disclosure is made and to check that they wish to proceed before doing so.

Information

4

Institutions make publicly available easily comprehensible information on their complaints and appeals procedures.

Making their complaints and appeals procedures (and any associated guidance) publicly available assists institutions to ensure that those who need to know about the procedures have ready access to them. It is a helpful extension to the routine provision of information when students commence their studies and provides students with opportunities to raise matters of concern whether they are:

- studying or domiciled overseas
- working at, or with, a partner institution
- involved in placements or work-based learning
- recent graduates
- when they have been accepted to study by the institution.

Other occasions when pointers to institutions' complaints and appeals procedures can be routinely provided include the time when students are notified of the results of their assessments and when announcing their overall results.

Where institutions maintain specially designed complaints and/or appeals procedures for particular categories of students, such as postgraduate research students or students studying with partner institutions, it is important for them to make this clear and to provide pointers to where information on these separate procedures may be found. Where an institution has also established independent mediation arrangements or an internal ombudsman scheme, it is valuable to publicise these arrangements widely.

It is generally recognised that the use of straightforward language, and the avoidance of 'legalese' and jargon when developing their procedures, helps institutions to be confident that all those referring to, or making use of, complaints and appeals procedures will be able to understand how they work. It can also be helpful for those writing the procedures to approach drafting or redrafting them from the perspective of a person making a complaint or an appeal. In many cases, the use of graphical illustrations or flowcharts of institutions' complaints and appeals procedures has been found to assist those who need to refer to them.

Institutions have a responsibility to communicate their complaints and appeals procedures effectively to those who need to know about them. There is a corresponding responsibility on the part of students to acquaint themselves with the complaints and appeals procedures of the institution(s) with which they are studying (or the relevant awarding body) and information on where advice, guidance and support can be found.

Internal procedures: design and conduct

5

Clear design of institutions' complaints and appeals procedures enables them to be conducted in a timely, fair and reasonable manner, and having regard to any applicable law.

This precept focuses on the need for institutions to have fairness and reasonableness in mind when designing and operating their complaints and appeals procedures.

Design considerations

As part of the design process for their complaints and appeals procedures, institutions need to consider whether and how their procedures should allow complaints and, where appropriate, appeals to be resolved informally at any stage, with the agreement of both parties. As part of such consideration, institutions may wish to decide whether to allow information gathered for one institutional process (for example, an appeal) to be made available, where appropriate, to another institutional process, such as a complaint, in consultation with those involved. Such an arrangement can save cost and time, contain the demands of the processes (and associated stress) for the parties involved and for the institution, and enable complaints and/or appeals to be resolved more quickly.

Institutions may also find it helpful to authorise designated senior staff to make decisions on redress in complaints cases, as appropriate, in order to promote early resolution.

Many institutions operate multistage complaints or appeals procedures. In such cases it is helpful to all parties for the institution to state in its complaints and/or appeals procedures the point at which an informal process can become formal and vice versa. In designing multistage processes, there is a need for institutions to guard against the risk that the complexity of their procedures might become confusing to all parties, and to ensure that the complexity of such procedures does not lead to delays which may give rise to unfairness.

At the beginning of their complaints and appeals procedures, many institutions find it valuable to operate a 'filtering' process to enable complaints or appeals which appear, on the face of it, unable to satisfy the stated grounds on which an appeal or complaint may be based, to be identified (and rejected) at the outset. As part of the design of such a filtering process it is fair and reasonable to provide an opportunity for the person complaining or appealing to challenge such a preliminary finding.

In order to resolve complaints and appeals swiftly, institutions may design their procedures so that they can be conducted without formal hearings. In some circumstances, however, the absence of provision for the person appealing or complaining to present their case in person to those investigating or deciding the matter might, on the face of it, be considered unfair: for example, when information and evidence, including oral statements, and/or their interpretation is disputed, or where the sanctions at the end of the process are severe (for example, dismissal from a programme of studies or research). Institutions may therefore find it advisable, in the interests of fairness, to make provision for hearings, in appropriate circumstances, in their complaints and appeals procedures.

It is generally considered good practice to consult students about major changes to complaints and appeals procedures. Likewise, it is considered good practice to ensure that, once agreed, significant changes to appeals and complaints procedures are drawn to the attention of all affected students and staff in a timely manner. It is then important for institutions to define the currency and period of validity of any different versions of their procedures if they have decided to operate them simultaneously.

Conduct of procedures

Procedures governing the conduct of a complaint or an appeal should emphasise the institution's requirement for proceedings to be conducted fairly. In order to secure fairness to all parties to a complaint or an appeal, those investigating or deciding on them need to act impartially and identify any actual or potential conflict of

interest or any circumstance in which they might benefit materially from the outcome of the complaint or appeal. Where this is the case, they should consider their position.

An important element in securing fairness to all parties is to ensure that proceedings are conducted in a timely manner, that both the institution and the person making the complaint or appeal have adequate notice of the subject of the complaint or the appeal, and that each has equal access to all the evidence which will be used as a basis for determining the outcome. Whether or not there is a hearing, the person complaining or appealing (and any relevant representatives involved) will need to be provided, as appropriate, with the documentation and information made available to the proceedings.

Where, in the interests of fairness, institutions provide for the holding of a hearing, there is a need to make it clear whether a panel will be convened to hear the case (which the student will be entitled to attend) or not. Where it is considered appropriate to hold a hearing, it is important to ensure that timely information is provided to the student on the composition of the panel and the staff and students who may be called on to provide evidence. Institutions may wish to consider what approach they might adopt in meeting reasonable and proportionate incidental expenses incurred by a person complaining or appealing and make that policy known.

6

Institutions ensure that appropriate action is taken following a complaint or an appeal.

This precept focuses on the need for institutions to follow up and implement the findings of a complaint or an appeal.

When a finding on a complaint or an appeal has been determined, the outcome needs to be communicated to the person complaining or appealing and to any other relevant parties, such as the relevant department(s) or school(s), as soon as possible and as long as this does not prejudice other proceedings. It is good practice to state the reason for reaching the decision, in order to ensure that this is

clearly understood by the student and staff involved. This may help the student determine whether or not to pursue the matter further. Institutions will also wish to explain how and when they will implement any remedy and whether that might include an apology.

At the point where institutional procedures have been completed, the person complaining or appealing should expect to be provided by the institution with a clear written statement, confirming that its internal procedures have reached completion and the outcome that has been reached. This is widely referred to as a 'completion of procedures letter' and is a requirement of the OIA and the SPSO. It is good practice for such a letter to advise the recipient of any relevant external procedures to which they may have recourse if they remain dissatisfied with the final outcome or response to their complaint or appeal. For designated institutions in Scotland the most immediately relevant external body is the SPSO and for designated institutions in England and Wales it is the OIA.

In the light of an outcome of a complaint or appeal, institutions will also wish to reflect on whether the findings might suggest that institutional regulations, procedures or practice need to be amended for the benefit of students and staff.

Institutions should ensure that their Senate, Academic Board or other similar body has an unambiguous power to annul a decision of the examiners and to substitute it with a decision of its own (normally following further advice from competent examiners), where circumstances make it appropriate to do so. It is important that there is clarity in the institution's procedures, as to where the authority lies in the institution for reaching a revised decision in cases where an appeal has been upheld (see also precept 2, above).

Access to support and advice

7

Institutions satisfy themselves that appropriate guidance and support is available for persons making a complaint or an appeal, including those taking advantage of learning opportunities provided away from institutions and/or through flexible and distributed learning.

This precept considers what responsibilities institutions might have to provide advice and support to persons making a complaint or an appeal.

Making a complaint or an appeal can prove stressful and burdensome for the parties involved. In such circumstances, it is good practice for institutions to provide opportunities for those involved with a complaint or an appeal to seek informed and impartial advice and guidance on lodging an appeal or making a complaint (or responding to an appeal or a complaint) on a confidential basis. This might include support in preparing evidence and other information to be considered in a complaint or an appeal and ought to be considered separate from any mediation or like arrangements (see precept 1, above). For any such support arrangements to be effective, institutions will need to make available to staff and students contact information for those authorised to provide such support and advice (whether by the institution or students' representatives). Such persons might include members of students' representative bodies, professional associations or trades unions (see also precept 10, below).

Where students have declared a disability to the institution, it is important to ensure that information is available to them at all stages in appropriate formats, and that reasonable adjustments are made to the proceedings to accommodate their needs (See also the *Code of practice, Section 3: Students with disabilities*, precepts 21 and 22 and *Further and higher education institutions and the Disability Equality Duty, Guidance for Principals, Vice-Chancellors, governing bodies, and senior managers working in further and higher*

education institutions in England, Scotland and Wales available at www.drc-gb.org/employers_and_service_provider/disability_equality_duty/sectoral_guidance/further_and_higher_education.aspx

As part of their arrangements for students who study away from the institution, it is important for the institution to provide them, in advance, with clear information and contact details of those within the institution, and in any partner or other provider, who can provide advice and guidance in the event that they wish to make an appeal or complaint (see also precept 4, above).

8 Institutions make provision in their procedures for those making a complaint or an appeal to be accompanied at any stage, including formal hearings.

This precept recognises that providing persons making a complaint or an appeal with support and advice may extend to enabling them to be accompanied at any hearing. In such circumstances, institutions will find it helpful to set out in their procedures the basis on which a student may be so accompanied, particularly in the context of a formal hearing or investigation.

In particular cases, this can extend to confirming what category of individual or individuals can accompany a student and the agreed capacity in which that person (or persons) will be attending (ie whether as a 'supporter' or as a 'representative'), and what that will mean in practice.

For example, both the person complaining or appealing and any panel might reasonably be expected to need to know, in advance of any hearing, whether:

- the representative will be able to speak
- the person complaining or appealing will need to be silent throughout

- the representative or person will be allowed to address the appeals or complaints panel
- whether either the representative or the person, or both, may ask questions of the panel.

It is also helpful for institutions to clarify in their complaints and appeals procedures whether the person making a complaint or an appeal may or may not be represented in their absence by a third party and whether a panel can proceed to consider the case in their absence.

Because the proceedings of appeals and complaints hearings are part of institutions' internal arrangements, formal legal representation may not necessarily be either helpful or appropriate. Institutions might therefore wish to consider their general position on legal representation for persons making a complaint or appeal, and under what circumstances they might agree to the person complaining or appealing being accompanied by a legally qualified person.

When thinking through this matter institutions might wish to consider their own position. In their appeal and complaints procedures some institutions provide for a legal adviser to attend to support the work of the panel but not to represent the institution's case. Where, however, institutions themselves are legally represented in complaints and/or appeals hearings, it is likely to be seen as unfair not to allow those making a complaint or an appeal to be legally represented. However, it will be useful for all those involved to appreciate that legal representation is likely to be the exception rather than the norm.

Monitoring, review and enhancement of complaints procedures

9

Institutions have effective arrangements to monitor, evaluate and improve the effectiveness of their complaints and appeals procedures and to reflect on their outcomes for enhancement purposes.

This precept is about why it is important to institutions to monitor and evaluate the work of their complaints and appeals procedures regularly. It points out that such monitoring and evaluation can assist two aspects of their work: their complaints and appeals procedures themselves, and those aspects of their work and relationships with students that form the focus of particular complaints and appeals.

Monitoring how their complaints and appeals procedures work overall, and maintaining records of such monitoring over time, will help institutions to be confident that procedures are fair and are working as they intend. As part of the process of ensuring that their procedures are working satisfactorily for all their students, institutions may find it helps them to be able to report to their senior academic committee on, for example:

- the number of complaints made by undergraduate, taught postgraduate and research students, respectively, and by students on full-time and part-time modes of study
- the gender and ethnicity of those making complaints and appeals
- whether or not those making complaints and appeals had disabilities
- the number of complaints and appeals made by international students and students from the UK.

An institution might expect that having the capacity to identify for itself whether a particular category of students is making a higher number of complaints or appeals than anticipated from their

numbers will provide the information needed to decide whether, and how it is to respond to such circumstances and, incidentally, to safeguard its reputation.

Such monitoring and evaluation information can also assist institutions when they undertake periodic reviews of the design and conduct of their complaints and appeals procedures. Such reviews can help to ensure that complaints and appeals procedures remain in step with institutions' other procedures and arrangements, with legislative requirements and general expectations of good practice in handling complaints and appeals in higher education.

Monitoring and evaluating their complaints and appeals procedures enables institutions to satisfy themselves that the procedures are working satisfactorily for all their students, and to take appropriate action where this is not the case. Additionally, where they collect information on the focus of complaints and appeals, this can provide institutions with valuable feedback on all the aspects of their support for students' learning. The identification of consistent themes among complaints and appeals - or a disproportionate number of complaints and appeals from one part of the institution - might, for example, point to positive improvements which could be made to the student experience.

Institutions may find monitoring and evaluating the number and character of formal complaints and appeals relatively straightforward. Extending such monitoring and evaluation to complaints and appeals dealt with through informal means and by mediation will be more difficult but may be worthwhile, not least to enable institutions to be confident that the existence of such informal procedures is properly acknowledged and to provide an estimate of their effectiveness. Extending monitoring and evaluation in this way should also enable institutions to be confident that the informal resolution of complaints and appeals is not masking areas of their work about which students are dissatisfied.

It is good practice for regular summary reports on the evaluation and outcomes of appeals and complaints processes to be considered by a designated senior academic committee (or those with

corporate responsibilities at an executive level) and used to inform subsequent practice and institutional responses. By this means, complaints and appeals can make a positive contribution to an institution's quality assurance and enhancement frameworks. To this end, institutions may find it helpful to publicise to all their staff and students information from summary reports again, with a view to improving awareness of the procedures themselves but also to enhance the confidence of students and staff in the transparency and effectiveness of institutions' complaints and appeals procedures.

10

Institutions ensure that suitable briefing and support is provided for all staff and students involved in handling or supporting complaints and appeals.

Handling complaints and appeals is becoming an increasingly specialised and technically demanding area of institutions' work. In order that staff involved can be alert to the interests of all parties, the general legal context and their institution's own regulations and precedents, suitable induction and briefing, and opportunities for professional updating are essential.

The aim of providing induction and briefings should be to familiarise staff with the detail of their institutions' complaints and appeals procedures and how these should be applied, and to enable them to appreciate the need for impartiality in investigating complaints or appeals. Inductions and briefings should also provide staff with an informed legal context in which they can situate their institution's complaints and appeals procedures and provide them with access to advice on technical matters such as, for example, the standard of proof to be adopted in any particular case, the admissibility of evidence and how to handle evidence from witnesses. It is good practice for institutions to provide regular opportunities for all those involved in handling complaints and appeals procedures to be appropriately briefed on current developments in their procedures and the law, and to exchange information on good practice in this area.

Institutions are increasingly aware that complaints and appeals can be stressful for staff, particularly those who may be the subject of a complaint and for those implementing the institution's procedures, as well as for students. In addition to considering what support and advice they may need to provide for those making a complaint or an appeal (see precept 7, above), institutions may also wish to consider how to safeguard the interests of staff, including those handling complaints and appeals.

Institutions will also find it helpful to ensure that staff and student representatives at all levels appreciate what is required of them, so that institutions' complaints and appeals procedures can deal fairly with all those involved. As part of this, it is important that all staff and students involved in handling complaints or appeals, or providing support to those involved in the processes, are aware of how their institution's complaints and appeals procedures relate to other institutional schemes for raising concerns (eg 'whistleblowing' and harassment procedures), of opportunities for informal resolution at all stages of the complaints or appeals processes, and how they relate to any independent and alternative means of resolving complaints and appeals, such as an internal mediation or ombudsman scheme.

Appendix 1: the precepts

(Note: the precepts are printed here without explanatory text for ease of reference.)

General principles

1

Institutions have fair, effective and timely procedures for handling students' complaints and academic appeals.

2

Institutions' complaints and appeals procedures are approved and overseen at the highest level.

3

Institutions ensure that those studying at all levels have the opportunity to raise matters of concern without risk of disadvantage.

Information

4

Institutions make publicly available easily comprehensible information on their complaints and appeals procedures.

Internal procedures: design and conduct

5

Clear design of institutions' complaints and appeals procedures enables them to be conducted in a timely, fair and reasonable manner, and having regard to any applicable law.

6

Institutions ensure that appropriate action is taken following a complaint or an appeal.

Access to support and advice

7

Institutions satisfy themselves that appropriate guidance and support is available for persons making a complaint or an appeal, including those taking advantage of learning opportunities provided away from institutions and/or through flexible and distributed learning.

8

Institutions make provision in their procedures for those making a complaint or an appeal to be accompanied at any stage, including formal hearings.

Monitoring, review and enhancement of complaints procedures

9

Institutions have effective arrangements to monitor, evaluate and improve the effectiveness of their complaints and appeals procedures and to reflect on their outcomes for enhancement purposes.

10

Institutions ensure that suitable briefing and support is provided for all staff and students involved in handling or supporting complaints and appeals.

Appendix 2: the Office of the Independent Adjudicator for Higher Education

[The text of this appendix has been provided by the Office of the Independent Adjudicator for Higher Education (OIA) and is included with its permission.]

The *Higher Education Act 2004* provides for the appointment of a designated operator of a student complaints scheme in England and Wales. The OIA is the designated operator of the Scheme with effect from 1 January 2005. The first Independent Adjudicator for Higher Education is Baroness Deech. The first Deputy Adjudicator and Chief Executive is Michael Reddy.

The OIA operates an independent scheme for the review of student complaints pursuant to the *Higher Education Act 2004*. All qualifying higher education institutions in England and Wales are required to comply with the Rules of the Scheme but the OIA is not a regulator. It handles individual complaints against higher education institutions. It may also publish recommendations about how institutions deal with complaints and what constitutes good practice. The service is free to students.

The OIA provides an introduction to the student complaints scheme on its official website at www.oiahe.org.uk/summary.asp

As part of its mission to identify and disseminate information about its work and how it makes its adjudications, the OIA publishes a sample of anonymised adjudications on its website. They can be found at www.oiahe.org.uk/case-reports.asp

OIA has the power to recommend remedies to institutions which can include offering compensation to complainants.

Appendix 3: the Scottish Public Services Ombudsman

[The text of this appendix has been provided by the Scottish Public Services Ombudsman (SPSO) and is included with its permission.]

SPSO provides a 'one-stop-shop' for individuals making complaints about organisations providing public services in Scotland. Complainants must claim hardship or injustice as a result of maladministration or service failure, and they must normally have exhausted the complaints procedure of the body complained about before taking their complaint to the Ombudsman.

SPSO deals with complaints about councils, housing associations, the National Health Service, the Scottish Government and its agencies and departments, colleges and universities and most Scottish public authorities. Higher education institutions were made 'persons' liable to investigation by the Ombudsman under the terms of the *Further and Higher Education (Scotland) Act 2005*. The same Act stated that 'academic judgements' about training or education matters lie outwith the Ombudsman's remit.

Because the Office of the SPSO brought together the offices of the Commissioner for Local Administration in Scotland, established in the mid-1970s, with offices of the Health Service Commissioner for Scotland and the Scottish Parliamentary Commissioner for Administration both of which were established in the 1990s and elements of Scottish Homes (a housing authority), SPSO is able to call on a considerable depth of experience in handling complaints from the public.

The Ombudsman is Professor Alice Brown who was formerly Vice-Principal and co-director of the Institute of Governance at Edinburgh University. Information on SPSO's complaints procedures can be found on its website at www.spsso.org.uk/complain

SPSO publishes the findings of its investigations which can be found at www.spsso.org.uk/reports

SPSO sends a copy of the final report of each investigation to the complainant and the body complained about. They are public documents which are laid before the Scottish Parliament.

SPSO also publishes compendiums of reports each of which is accompanied by the Ombudsman's Commentary, in which she highlights trends and issues brought out by the investigations. This is one way in which SPSO feeds back the learning from complaints, in order to improve the delivery of public services.

SPSO also produces guides and advice, for example, on how to make a complaint, on how to investigate a complaint and on valuing complaints as a means of improving services
www.valuingcomplaints.org.uk

Appendix 4: membership of the advisory group for the Code of practice, Section 5: Academic appeals and student complaints on academic matters

Gary Attle	Partner, Mills & Reeve
Mandi Barron	Assistant Registrar (Student Policy and Support), Bournemouth University
Dr Phil Cardew	Pro Vice Chancellor, London South Bank University
Janet Cormack	Student Case Service, Cardiff University
Dr Andrew Eadie	Director of Quality, Glasgow Caledonian University
Simon Felton	National Postgraduate Committee
Professor Adrian Graves	Registrar and Secretary, University of Salford
Jan Harris	Eversheds LLP [Until June 2007]
Fiona Hoban	Policy Adviser, Universities UK
Professor Ian Hughes	Co-Director, The Centre for Bioscience, Higher Education Academy/University of Leeds
Frances McLoughlin	Academic Registrar and Clerk to Governors, Norwich School of Art and Design
Huw Llandeg Morris	Academic Registrar, Swansea University
Dr Sofija Opacic	Higher Education Policy & Research Analyst, National Union of Students [Until April 2007]

Academic appeals and student complaints on academic matters

Professor Christopher Rowe	Classics Director, Higher Education Academy Subject Centre for History, Classics and Archaeology/University of Durham
Brian Salter	Deputy College Secretary and Academic Registrar, King's College, London
Stephanie Talliss-Foster	Quality Assurance Officer, Newman College of Higher Education
Professor Simon van Heyningen	Vice Principal, University of Edinburgh

Corresponding members

Joanna Gamblin	University of Stirling
Irene Hynd	Academic Registrar, Director of Registry and Secretariat Queen Margaret University, Edinburgh
Professor David Kirk	Queen Margaret University, Edinburgh
Alaine Sommerville	Bell College
Alison Spurway	Senior Administrative Officer, Senate Office, University of Glasgow

For QAA

Janet Bohrer	Development Officer
Sarah Butler	Assistant Director
Dr David Cairns (Convener)	Assistant Director