



Review of Institutional Complaints and Appeals Procedures in England and Wales



national union of students

Contents	Page
List of recommendations	2-4
Foreword	5-6
Background and QAA Precepts from Code of Practice	7-9
Methodology and acknowledgements	10
Awareness of procedures	11-13
Informal procedures	14-20
Formal procedures	21-29
Completing the circle – feeding back to students and students’ unions	30-31
Perceptions	32-33
Annexes	34-42
Annex 1: List of institutions responding to the NUS survey	34
Annex 2: NUS Survey	35-42
List of charts:	
Chart A: How aware would you say students are of the complaints and appeals procedures at your institution?	11
Chart B: How often does the informal procedure resolve the issue?	16
Chart C: Does your institution always adhere to this time-limit?	22
Chart D: How widespread do you think students not making complaints due to fear of damaging their relationship with their tutor is?	26
Chart E: Does your institution give adequate and timely information about the OIA?	27
Chart F: Do you consider your institutional complaints procedure to be transparent, fair and just?	32

List of Recommendations

There are a series of recommendations throughout the report which we would ask students' unions to raise with their institution and for organisations such as the Office of the Independent Adjudicator, the QAA through its Audit process, and bodies such as the Academic Registrars' Council, to address.

Awareness of procedures

Recommendation 1: Institutions should review how they publicise their procedures to students making them more user-friendly and easier to find on the institutional website or handbooks.

Recommendation 2: Institutions should remind students about appeals procedures and extenuating circumstances prior to each exam period to ensure that students are aware of the procedures and so that they raise them as early as possible.

Recommendation 3: When a student makes a complaint or academic appeal they should be provided with additional information about the process. This should include how long it would usually take to be resolved and more detail on the additional information needed as well as the importance of the appeal deadlines.

Recommendation 4: All complaints and appeals procedures should be reviewed to ensure that they are written in plain English and easily accessible to all students.

Recommendation 5: The sector, supported by the OIA and the Academic Registrars Council, should develop a model procedure that institutions could use as the basis for their procedures.

Informal procedures

Recommendation 6: Institutions investigate the use of mediation as part of their procedures.

Recommendation 7: Institutions should consider the introduction of an independent ombudsman on campus, and what their role would be in discussion with their students' union.

Recommendation 8: That there is a fixed timeframe for the informal stage, that students are officially told when that stage has finished and that they are referred on to the next stage as appropriate. Students should also be informed at the outset that what is happening is the informal stage.

Recommendation 9: That institutions run additional workshops on informal resolution of complaints and that the OIA identify ways of best sharing practice about informal resolution across the sector.

Recommendation 10: That records are kept of the number and type of informal complaints and reported to the institution centrally alongside the statistics of the formal procedures.

Formal procedures

Recommendation 11: All staff that deal with complaints and appeals procedures should receive training from their institution, supported as appropriate by the OIA, and that this should be extended to academic staff, especially if they are also personal tutors.

Recommendation 12: If an institution does not adhere to its own timetable then it should provide a detailed explanation why not.

Recommendation 13: All complaints and appeals should be dealt with within three months of it being lodged with the institution. In the small number of cases where the student believes that the institution is dragging its feet, and the student has met the deadlines, they should also be able to go straight to an external body – possibly the OIA.

Recommendation 14: Institutional complaints and appeals procedures should not have more than four stages. These could include an informal stage, a formal stage that may include mediation, and an appeals stage.

Recommendation 15: Institutions should make explicit that they will respond quickly to any cases where there is a break-down in relationship between the student and the person they are complaining about on the basis of their complaint.

Recommendation 16: If students have concerns about whether the procedures has been effectively followed at an early stage of the process they should be able to raise this at the time, rather than having to wait until they reach the OIA.

Recommendation 17: There should be clear information on what evidence is required by, or acceptable from, the student as part of the complaints and appeals procedures. There should also be greater clarity about both the burden of proof and standard of proof.

Recommendation 18: Students should be given the option of presenting their case in person if they want and also to have support from a friend or students' union representative if requested.

Completing the circle – feeding back to students and students' unions

Recommendation 19: Institutions should make information available about the number of complaints and appeals to students' union, both the overall number and those upheld in full or in part. This information should also include the data about complaints and appeals concerning all the qualifications that they accredit, even if it is delivered in an FE college or overseas.

Recommendation 20: Institutions should also include information about their response to complaints, such as what they have done to review the procedures.

Recommendation 21: That the OIA informs the students' union at the institution of all cases referred to them where the students' union has supported the student through the process. The OIA should also suggest to students that did not receive support from their students' union they may want to inform the students' union of the outcome of their case to prevent similar cases in the future.

Perceptions

Recommendation 22: That institutions do more to tackle student perceptions of their procedures. Institutions should conduct institution-wide research into the views of their students as part of their annual student surveys.

Recommendation 23: That institutions review their procedures on a regular basis and that they include representatives of their students' union in the process to improve the perception of their fairness.

Recommendation 24: That institutions should consider having a student sitting on, or observing, the complaint or appeal panel to reassure students of the robustness and fairness of the procedure.

Foreword

This timely report reviews complaints and appeals procedures in higher education institutions in England and Wales. This report coincides with a broader "Pathway" review by the Office of the Independent Adjudicator (OIA) into their own procedures. NUS has responded to the OIA review and hope that this report will contribute to the wider debate about ensuring that procedures, in the words of the Dearing Report, "reflect the principles of natural justice; they are transparent and timely."

For many years NUS campaigned for an independent, external recourse for student complaints and appeals and it was finally in the 2004 HE Act that the OIA was established to deal with complaints and appeals in England and Wales. NUS believes that whilst the work of the OIA, as with any organisation, can be improved we do believe that the OIA is now an accepted, and valued, part of the HE sector landscape.

In the 10 years since NUS last did research into complaints and appeals procedures there have been many changes; in addition to the introduction of the OIA, there has also been a revision of the QAA Code of Practice for academic appeals and student complaints.

There is much anecdotal evidence that complaints and appeals procedures differ markedly between and within institutions. There are examples of appeals taking several years to resolve, students giving up during the process and a nine stage process in one institution.

NUS therefore decided to investigate this issue in more detail and undertook a survey of advisers in students' unions and several focus groups. This report highlights much good practice in different institutions and we hope that students' unions will work with their institutions to improve their procedures. However, there are also a number of areas where we have major concerns.

One of the key areas of concern is the length of time taken by a student to go through the institutional procedures. It is particularly concerning that half of the respondents to the NUS Survey said that the longest example that they were aware of was over a year for the institution to deal with the complaint and that in a couple of cases it was over two years.

When the advisers were asked whether they are aware of students being afraid of making a complaint or making an appeal due to how it may affect their relationship with staff all the respondents replied that they were aware of this happening. When asked about how widespread they think it is 73% replied that they believed it was "reasonably" or "very" widespread.

Finally, I would like to end by calling for all institutions to regularly review their complaints and appeals procedures, I believe that all procedures should undergo a major review at least every three years, and for the students' union to be involved in this process.

A handwritten signature in black ink on a light background. The signature is written in a cursive style and reads "A. Porter".

Aaron Porter
Vice-President (Higher Education)

Background

The 1997 Dearing Report recognised that there would inevitably be occasions when students will complain and that it is essential for good governance that complaints are dealt with fairly, transparently and in a timely way.

Dearing also recognised that it was likely that complaints would increase “particularly as assessment criteria become more explicit and student expectations and financial commitments increase.” The report also noted “the evidence of increasing disputes between institutions and their students including litigation”¹.

Recommendation 60 of the Report summarised this:

“We recommend to institutions that they...review...their arrangements for handling complaints from students, to ensure that they reflect the principles of natural justice; they are transparent and timely; they include procedures for reconciliation and arbitration; they include an independent, external element; and they are managed by a senior member of staff.”

The first Annual Report of the OIA identified their aim as “to resolve those student complaints that cannot be sorted out by the HEI itself, in an efficient, transparent and fair manner. In the last resort, we are an alternative to expensive and time-consuming litigation, so both students and HEIs will benefit.”

This suggests that part of the reason why the OIA was created was to provide an alternative route to litigation which is both adversarial, expensive and can take significant amounts of time and may ultimately be less likely to produce the outcome that students actually want.

The most recent Annual Report of the OIA outlined that around 1,350 decisions have been issued by the OIA since its inception and that in 2007 applications to the OIA rose by 25% to 734.²

The Quality Assurance Agency (QAA) developed a Code of Practice which “supports the national arrangements within the UK for quality assurance in higher education. It identifies a

¹ National Committee of Inquiry into Higher Education, 1997, <https://bei.leeds.ac.uk/Partners/NCIHE/>

² OIA Annual Report 2007, <http://www.oiahe.org.uk/docs/OIA-Annual-Report-2007.pdf>

comprehensive series of system-wide principles (precepts) covering matters relating to the management of academic quality and standards in higher education."³

Section 5 of the Code sets out principles for addressing complaints on academic matters (complaints) and appeals on academic matters (appeals). Below are the precepts from Section 5 of the Code.

Precepts from the QAA Code of Practice

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. Institutions make publicly available easily comprehensible information on their complaints and appeals procedures.
6. Institutions ensure that appropriate action is taken following a complaint or an appeal.

³ QAA Code of Practice, Section 5

http://www.qaa.ac.uk/academicinfrastructure/codeOfPractice/section5/COP_complaints.pdf

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.

Methodology

NUS conducted research into institutional complaints and appeals procedures between June 2008–February 2009. This has been done through a number of events and activities.

In July and August NUS ran workshops at our “Action through Advocacy” summer training events for new students’ union officers. These workshops, facilitated by the OIA, discussed institutional complaints and appeals procedures and the views of these students’ union officers on the key principles that should form the basis of any procedures. The four workshops had student representatives from more than 45 institutions.

The main activity that forms the basis for this research is a survey of student advisers in students’ unions. This survey, investigates the key areas relating to institutional procedures (see Annex 2 for the survey) and was developed taking into account the 1997 NUS Survey of institutional procedures as well as receiving comments from students’ union advisers and colleagues at the OIA.

Over the Summer NUS sent the Survey to all higher education students’ unions in England and Wales targeting those staff and officers in students’ unions that support students through their institutional procedures.

NUS received 23 completed surveys from students’ unions across England and Wales from a mix of universities (9 pre-1992 universities and 14 post-1992 universities). Whilst a relatively small sample, we believe that it is broadly indicative of the issues that students face and is representative of the diversity of institutions across the sector.

NUS then held a focus group of students’ union officers and staff at the Higher Education Conference, 16th January 2009, to discuss the initial findings and recommendations of the report. The focus group comprised 11 representatives from the following students’ unions: Birmingham City, Brunel, Cardiff, Heriot-Watt, Newman University College, Nottingham, Reading and Warwick.

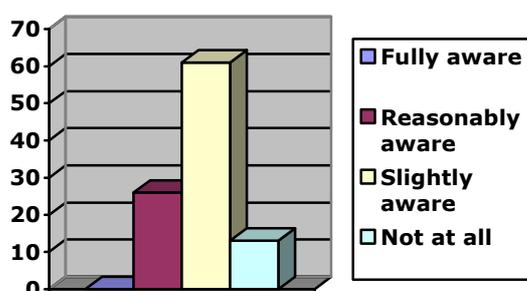
Finally, NUS circulated the draft report to various interested individuals in students’ unions and the higher education sector as well as bodies such as the OIA and QAA for their comments. We also presented the report in draft to the Academic Registrars’ Council Practitioners Group on Student Appeals/ Complaints at a meeting in London 4th February 2009 with representatives from 44 institutions which raised many interesting points that we have considered in this final version.

Awareness of procedures

When discussing complaints and appeals procedures it is important to ensure that students are aware of the mechanisms and that they are easily understandable. One of the precepts in the QAA Code of Practice is that “institutions make publicly available easily comprehensible information on their complaints and appeals procedures.”

In response to the questions “How aware would you say students are of the complaints and appeals procedures at your institution?” no one replied that they believed their students to be fully aware of the procedures with 13% replying “not at all”, and 61% replying only “slightly aware”.

Chart A: How aware would you say students are of the complaints and appeals procedures at your institution?



Institutions use a number of mechanisms to publicise their procedures. The most regularly cited, by almost all respondents, was having the information on their institution’s website, but there were concerns that this may be hard to find. Other highly cited mechanisms included information in the student handbook or being available from registry.

Other less frequently cited responses that are also used is distributing the information at enrolment/registration; making it available in academic departments; via the personal tutor system and supporting the students’ union to publicise them.

At Brunel University a number of departments email their students at exam time about their procedures. This reminds students of the regulations at an appropriate time, rather than just at the beginning of term when students can be overwhelmed by information. They also break their regulations down into bite-sized chunks to make them more accessible.

The issue of extenuating circumstances is an interesting one. Many institutions expect students to inform the institution of any extenuating circumstances before the assessment. At Aston University, for example, students must provide information about extenuating

circumstances before the exam or assessment, however they make students aware of this, and what they mean by extenuating circumstances, on their student portal during exam time.

At another institution they are expected to inform the institution of extenuating circumstances before the exam board – i.e. about ten days after the exam has taken place. Some other institutions allow students to submit extenuating circumstances after the assessment but the student will need substantial evidence.

One institution included the procedure for appeal on the bottom of the results letter and this resulted in a significant increase in the number of complaints but without actually increasing the number of valid cases. Institutions increasingly operate a filtering process to identify vexatious cases but this should be monitored to ensure student confidence in the procedure and it would be worth considering including a representative from the students' union in the process.

The QAA Precept refers to "easily comprehensible" information and we should therefore consider the language that the procedures are written in. Procedures should be written in plain English and it is important to consider phrases such as "extenuating circumstances" and how these are explained to students, especially international students.

More worrying a third of institutions do not provide additional relevant information at the time a complaint or appeal is made. One respondent replied that this happens informally, if a student approached the complaints officer or Head of Academic Appeals they would explain the process to them. NUS believes that this should happen as a matter of course.

The OIA currently holds regular workshops on specific areas such as academic judgement and informal procedures but it could further develop this role of sharing of practice across the sector. There is so much experience within the OIA, and also within the Academic Registrars Council, and this could be used to improve institutional procedures.

The NUS believes that the best way to ensure institutions have appropriate institutional complaints and appeals procedures is by establishing a model procedure which institutions could adopt if they wanted. Institutions could of course, as autonomous bodies, choose not to follow this model procedure but it could then be the basis for discussions within institutions, and students' unions could discuss with their institution why they chose not to follow the model procedure.

The Academic Registrars' Council is currently developing some guidelines for complaints and appeals procedures and NUS hopes this report will help inform the development of these and would welcome the opportunity to be further involved.

Recommendation 1: Institutions should review how they publicise their procedures to students making them more user-friendly and easier to find on the institutional website or handbooks.

Recommendation 2: Institutions should remind students about appeals procedures and extenuating circumstances prior to each exam period to ensure that students are aware of the procedures and so that they raise them as early as possible.

Recommendation 3: When a student makes a complaint or academic appeal they should be provided with additional information about the process. This should include how long it would usually take to be resolved and more detail on the additional information needed as well as the importance of the appeal deadlines.

Recommendation 4: All complaints and appeals procedures should be reviewed to ensure that they are written in plain English and easily accessible to all students.

Recommendation 5: The sector, supported by the OIA and the Academic Registrars Council, should develop a model procedure that institutions could use as the basis for their procedures.

Informal procedures

Informal procedures are an increasingly important aspect of complaints and appeals mechanisms. The Dearing Report recommended “to institutions that they include procedures for reconciliation and arbitration.” This is key in the context of informal resolution. In the original March 2000 version of the QAA’s Code of Practice there was little reference to informal resolution of complaints and appeals, however in the amended October 2007 version there is much greater prominence given to this option.

The Code says that “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.”

The NUS Survey showed that only about a third of students’ unions that replied said that their institution had an informal mechanism. It was also noticeable that that this informal procedure was much more common for complaints than it was for appeals, although given the differences between complaints and appeals this may be less surprising.

One post-1992 university replied that the informal appeal/complaint goes to the relevant department before a mediation stage, which is overseen by registry. In another university, a pre-1992 university, they replied that for complaints there is an ‘informal’ first stage to the procedure. Students are then encouraged to resolve issues as locally and informally as possible, and progress through increasingly more formal stages if this doesn’t result in a satisfactory outcome.

In some institutions the informal stage is overseen by a university staff member such as a Student Complaints Officer or the Dean of Students. This can ensure a fairer process that is institution-wide, although there was some concern expressed about the perceived independence of someone working for the institution in resolving complaints.

Buckinghamshire New University outlined their procedures, starting with an informal attempt to resolve a complaint via the Personal Tutor/Course Leader/Field Chair before the start of a formal complaint. This procedure is documented on an informal complaint form.

Another post-1992 university replied that students are occasionally supported to resolve personal issues directly with staff through informal mediation, however this is not regulated or standardised so not all students will have this support.

CASE STUDY: CAMPUS OMBUDSMAN

Campus ombudsmen are a regular feature in the US, Canada and Australia and they can form a key plank of the informal resolution process in these countries. It is therefore worth looking at campus ombudsmen in more detail.

The campus ombudsman acts as a neutral problem solver and can act as a reality check to both the student and the institution. This initiative may be more approachable for students rather than being confronted by an increasingly complex bureaucratic system of university administration.

The model of campus ombudsmen comes from the US where the campus ombudsman is an independent, neutral member of staff, such as a retired professor or academic lawyer, who aims to resolve problems informally, for example, through mediation.

One example is the University of Denver in the US. The Ombuds Office offers four main roles: consultation, intervention, recommendations and training and presentations.

Consultation - *The Ombuds can hear individual complaints and help sort out and identify options for resolving those concerns.*

Intervention - *A trained and experienced mediator, the Ombuds can provide structured mediation or less structured third-party assistance, to help disputing parties resolve their differences in mutually satisfactory, do-able and durable agreements.*

Recommendations - *The Ombuds can track patterns of complaints about University policies and procedures and may recommend changes to University policies and/or procedures.*

Presentations and training - *The Ombuds welcomes opportunities to speak with individuals and groups about the Ombuds Office and its services.*

WHAT IS AN OMBUDSMAN by Professor G.R.Evans

It is important to be aware that the term 'ombudsman' is used to describe a wide range of roles in different parts of the world. In some countries an ombudsman is like a triage nurse, offering a reality check and early neutral evaluation of the issues in the dispute; in some the ombudsman is an adjudicator who acts at the end. In some places he advises the institution on the design and drafting of procedures and in some he is an advisor to management and academics. No one can do all these things because it would compromise fairness. So it is essential that any HEI planning to appoint an ombudsman think through very carefully the job to be done and the best way to position the ombudsman in the structure.

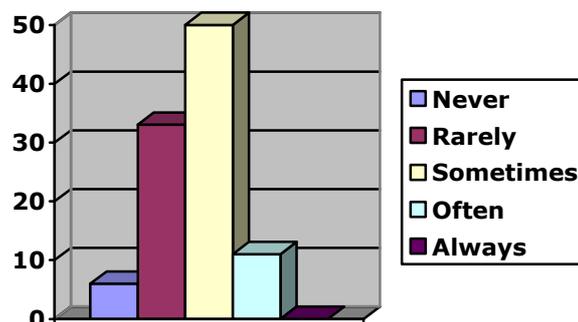
It would be interesting to see how independent these Ombudsmen are perceived and how successful they are in resolving complaints. However, it should be clear whether they are acting as an independent ombudsman arbitrating on a complaint or as a mediator.

NUS believes that institutions should look closely at whether they have a campus ombudsmen and what benefits it would add to the procedures. They could then have detailed discussions with their students' union about what role the campus ombudsman would play at that institution.

How successful is the informal stage

When asked "how often does this informal procedure resolve the issue?" it is encouraging to see that more 60% replied "sometimes" or "often". One respondent replied that the informal stage rarely resolves 'big' complaints but is sometimes useful in clearing up misunderstandings.

Chart B: How often does the informal procedure resolve the issue?



It was also suggested that the informal route was a less intimidating option for students. It is important that the informal processes should be a quicker and simpler route than the formal processes. Whilst the informal route will not resolve all cases it is worth using more often as part of the process.

It was, however, commented by one respondent that it can be frustrating when the student is not satisfied following the informal process and they then have to put the same information into writing to the same person they have already spoken to. It is therefore important to ensure that the informal stage is fully explained before a student goes down that route to explain what the options are and what can be achieved at each stage.

In one university mediation and local level complaints are formal stages of their procedure and need to be written-up and can then be used at the formal stages. This may get over the

frustration of repeating information at different stages but does make the process less “informal”.

It was also commented that in some cases the person dealing with complaint at the informal stage does not have the power to resolve it, or even to say “sorry”. There is increasing pressure from university legal departments not to say sorry and thereby admit guilt, when in some cases an early apology may be enough to satisfy the student.

One university replied that it is sometimes difficult to get staff to engage with the informal discussion, in particular that it is difficult for all staff to avoid getting defensive or attempting to push problems aside and that not all staff know much about the procedures. It is therefore important that more emphasis is placed on the informal stage and that institutions run workshops on informal resolution as a crucial part of staff development. NUS would also welcome the opportunity to discuss further with OIA how they can best support the sharing of effective practice in this area across the sector.

One particularly damning response from a students’ union was “It (informal resolution) represents the best chance of success, but if it fails, attitudes harden, and proceedings become protracted and stressful. Too often departments do not treat complaints impartially, but just defend the status quo. Impartiality is not achieved until the formal stage. Departments can also delay proceedings by dragging their feet when responding.”

Timeframe

There was some concern expressed about the timeframe for the informal procedures. In most cases there isn’t a formal timeframe and so it is important that if the informal processes aren’t working the student is able to request that they move straight to the formal stages.

There were some examples where students weren’t told that they had reached the end of the informal stage or weren’t referred to next stage of the process. This differs across schools and between staff members – for example the complaints officer, who deals with formal complaints, would inform students of their options after responding to a complaint. NUS would therefore call for greater clarity about where students are in the process.

It was suggested by another respondent that it very much depends on the individual situation; any complaints aimed directly with one member of staff will almost certainly not finish with a referral to the next stage, whereas appeals are non-threatening to the staff member and almost always finish with a referral. Misconduct and discipline are also non-threatening to staff

and so explanation of the next stage is much more likely, as there is no issue of staff conflict of interest.

Monitoring the informal stages

It was commented that it was often very difficult to monitor the number of complaints at the informal stages, with informal complaints not being centrally reported. This means it is difficult to get a picture of what students are complaining about at the local level and whether there are any trends across the institution. It is therefore important to ensure that records are kept of the number and type of complaint/appeal, even at the informal stage.

We should however make the differentiation between the informal informal processes and the formal informal processes. We are not suggesting that the informal informal complaints, such as a student complaining about a lecturer turning up late once or the heating not working in a lecture theatre, should be recorded within these official statistics for complaints that are reported to the governing body – although it would be useful for the department to keep track of these. These kind of informal complaints should be dealt with mechanisms such as the staff/student liaison committee. It is where there are more serious complaints that are dealt with informally that they should be recorded.

It is therefore key that there is greater clarity both within institutions, and also across the sector, about what complaints should be recorded and to whom they should be reported.

Mediation

It is also important to identify what we mean by “informal procedures” and how formal the informal mechanisms are. The case study above looks at the role of campus ombudsman, another key informal mechanism is mediation.

Mediation is an informal, voluntary, and consensual process in which disputing parties work with an impartial mediator to resolve their differences. Both parties must agree to participate in the mediation. Mediation can be quicker and less bureaucratic and more “user-friendly” and resolved to the satisfaction of both parties. It will however be important to ensure that both sides believe that the mediation is truly independent and impartial.

It is likely that greater use of mediation in student complaints would result in better outcomes for both parties. It may not work in every case where relations between individuals have broken down irrevocably but would be a good starting point in most cases. Although, it can also mend broken relations in some cases.

CASE STUDY: University Mediation Service, University of Bristol

The University of Bristol have introduced a University Mediation Service which, if the parties are willing, forms the first stage of the formal process. The Student Complaints Officer will provide the student and the other party or parties with initial information about mediation and the mediation process.

The mediators are members of staff who have undergone special training in mediation and will have no prior connection to the complaint or appeal. The Mediator's task is to attempt to help all those involved find a resolution to the problem.

They will see the student and the staff member(s) involved in the dispute, generally separately first and then together. The mediators role is not to suggest or impose solutions but to facilitate open discussions between all parties. All discussions with the Mediator are confidential.

Whilst mediation might be seen as an informal process in some institutions in others it was seen as an integral option within the formal processes. It was suggested by one respondent that sometimes, when a personal problem arises mediation would be more useful than requiring them to contact someone directly. This can also often seem 'confrontational' to the student and staff member, and it is easy when placed in a stressful and intimidating situation like this to phrase things badly, with the result that staff can misunderstand and assume students want special treatment or are accusing them of making errors, when this is not always the case.

Note on Mediation from Professor G.R.Evans

In the case of mediation the aim is to find a solution which is in everyone's interests rather than to determine who is in the right. If an attempt at mediation fails, the adversarial process simply carries on where it left off, so there is no 'progression' through the formal procedure. Mediation can be tried at any stage, not just at an early stage.

CASE STUDY: HEFCE Funded "Improving dispute resolution" project

Professor G.R. Evans leads a project on Improving Dispute Resolution, funded by the HEFCE Leadership, Governance and Management Fund in 2007. The project recognises that disputes are a risk factor for the whole institution, that they are costly; they take up administrative time; they damage reputation.

The project seeks to:

- *'To determine HEIs' experience with mediation and other forms of alternative dispute resolution' ('Strand A')*
- *'To discuss with HEIs ways of identifying disputes which are suitable for mediation' ('Strand B')*
- *'To work with HEIs to develop training needs assessments for mediation' ('Strand C')*

Recommendation 6: Institutions investigate the use of mediation as part of their procedures.

Recommendation 7: Institutions should consider the introduction of an independent ombudsman on campus, and what their role would be in discussion with their students' union.

Recommendation 8: That there is a fixed timeframe for the informal stage, that students are officially told when that stage has finished and that they are referred on to the next stage as appropriate. Students should also be informed at the outset that what is happening is the informal stage.

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Recommendation 10: That records are kept of the number and type of informal complaints and reported to the institution centrally alongside the statistics of the formal procedures.

Formal procedures

Training for staff

There is some evidence of a lack of awareness of procedures by staff in institutions. The QAA Code recommends that "Institutions ensure that suitable briefing and support is provided for all staff and students involved in handling or supporting complaints and appeals."

When asked whether there was training provided to institutional staff that deal with complaints and appeal, a third of responses said yes and another third replied in "some cases". It was commented that only staff at a senior level within departments are aware of the full regulations, this can result in some staff getting things wrong or, through not being sure, either give students false hope or telling them there is no point doing something when in fact they have a good case for appeal.

We would therefore want to ensure that all staff responsible for dealing with complaints and appeals are provided with training and that this should also be extended to personal tutors as well.

Time limits

When asked whether their institution has a time-limit within which a student has to complain or appeal there was a range of responses. In most institutions there was a different maximum time limit for students to complain than to make an appeal. For example, in one institution it was two months for an appeal and one month for a complaint.

In terms of appeals there was a wide range of responses from 5 working days after the publication of the results to 3 months. In some institutions there were also differences between undergraduates/taught postgraduates compared to postgraduate research students.

For complaints there was usually a longer time limit, although some institutions just said that the complaint should be "timely". In terms of the actual time limit it ranged from one month to one institution that allowed students to complain up to one year after the issue, although they are encouraged to raise it at the time.

Most institutions also limit the time in which students can complain after a student has graduated.

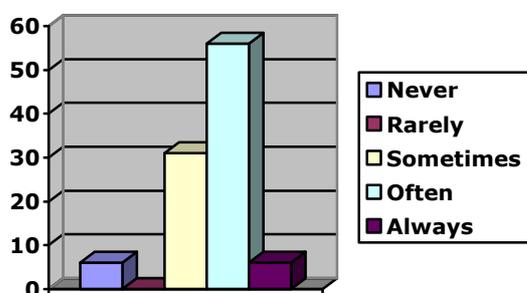
When asked about whether an institution has a maximum time-limit in which they will deal with a complaint or appeal around 40% of institutions did not have a time-limit.

Where there was a time-limit this varied between institutions with some institutions having a different time-limit for each of the different stages, for example one has a staged process, for complaints 15 working days for Stages 1 and 2 and 25 working days for Stage 3. For appeals they have 30 working days for Stage 1 and 30 working days for Stage 2.

Another institution replied that the limit is 6 weeks to receive the School's response to an appeal; 4 weeks to receive an investigating officer's decision about whether a case is prima facie. For appeals they should be decided within 4 months of the appeal panel being appointed. Another institution replied that the limit was two weeks at department level, and four weeks at institutional level.

It was also questioned whether the institution always adheres to this time-limit. One students' union replied that their institution usually meets the time-limit but if not they give a detailed explanation for why not.

Chart C: Does your institution always adhere to this time-limit?



Length of time taken to complete institutional complaints/ appeals procedures

NUS receives many anecdotal examples of students giving up due to the procedures taking so long. It is possible that if institutional procedures did not take so long then there would be a rise in the number cases going to the OIA although we believe that this would be a positive thing as it would show the true number of complaints/appeals.

In response to a question about the longest length of time that the adviser in the students' union is aware a case taking, all the responses were over six months. It was particularly

concerning that half of the respondents to this question saying that it was over a year and in a couple of cases the longest time experienced was over two years.

NUS believes that there should be a maximum timeframe within which a complaint/appeal should be dealt with within an institution. We believe that this should be no more than three months after the complaint/appeal has been lodged with the institution.

This then brings the difficult question of what happens if a complaint or appeal takes longer than the three months. In some cases this will be because the case turns out to be more complicated than was first realised, and progressively more and more information being found to be necessary. In some cases it may also be that the student has not met all the deadlines or produced the right evidence.

There may, in a small number of cases, be instances where the student feels that the case is taking longer than it should due to procrastination on behalf of the institution. In these cases the student should be able to take their case to another, ideally external, body. There would be interesting opportunities within federal universities such as the University of Wales or the University of London but for most institutions the OIA might be the most appropriate body. However it should be noted that there are concerns that the OIA is not currently set up to resolve actual complaints but rather ensure that the institution follows their procedures. This would give rise to concerns in some corners of "mission-creep" or indeed a lack of resources or expertise at the OIA.

We would therefore welcome more discussion surrounding how we can ensure the speedy resolution of complaints and appeals and the possibility that students who believe an institution is dragging its feet are able to take their complaint to an external body.

Number of stages for a procedure

It is important that a procedure is not overly bureaucratic and that there are not an endless series of stages that must be cleared before a student is able to take their case to the OIA. It was interesting to note that most institutions have on average 3 or 4 stages although many institutions have a different number of stages for complaints and appeals. There are examples of institutions that have significantly more than four stages to their appeals procedures, with one example having 9 stages.

Most institutions have an appeals stage in their process. We believe that this body should be able to review the decision rather than just whether the institution has followed the procedures correctly – this is part of the role of the OIA.

NUS believes that there should usually be no more than four stages in any procedures. These could be an informal stage, a formal stage that may include mediation and an appeals stage before the student receives a Completion of Procedures letter and is able to take their case to the OIA.

Evidence

Students are required to back up their complaints with evidence. However, it was commented that it was not always clear what evidence was required or would be suitable. Procedures make reference to the requirement for relevant evidence where possible but not what this evidence would look like. One institution commented that the University Complaints Officer will try and explain in individual cases the evidence required and provide examples.

Another institution outlined that their procedures gave examples of what was required. The appeals guidelines suggest evidence such as a doctor's certificate or death certificates, the complaints procedures suggest other forms of documentary evidence. They also commented that it is accepted that evidence may not be available in all circumstances.

We have addressed some of the concerns surrounding extenuating circumstance in the earlier section on the awareness of procedures. However there is one particularly interesting question in relation to international students claiming that they could not disclose extenuating circumstances due to "cultural reasons". In these cases it can occasionally be difficult to assess the validity of the claim. Some institutions explicitly mention that cultural reasons can not be used as a reason for non-disclosure. It is an area that probably requires further consideration but one suggestion is that it might be possible for the student to log the extenuating circumstances anonymously before the exam.

Representation during the meeting

When asked whether a student is able to present their case in person, all students' unions replied that institutions allowed students to do this, and indeed in a number of cases they are required to. Although in another institution they replied that whilst the regulation allow it, it doesn't happen very often, and in another institution they are allowed to, but it must be supported by a written statement.

At a couple of institutions they replied that students are able to present their case in complaints but not in appeals. At stage 1 of the complaints procedure students can complain

verbally. At stage 2 and 3 the relevant complaints managers are encouraged to invite complainant to meeting.

In terms of whether a student can be accompanied by a friend, one institution replied that they can be accompanied but the 'friend' is a McKenzie friend only, for moral support, not to represent the student. Another institution replied that they can accompany but they cannot represent for complaints and PGT appeals. They can represent the student by proxy in PGR appeals.

There were questions from institutions about whether this might result in slowing down the process, especially in the case of an appeals panel meeting over the Summer. It was also felt that in some cases, such as extenuating circumstances, it may come down to how well a student is able to present their cases rather than being based on the facts.

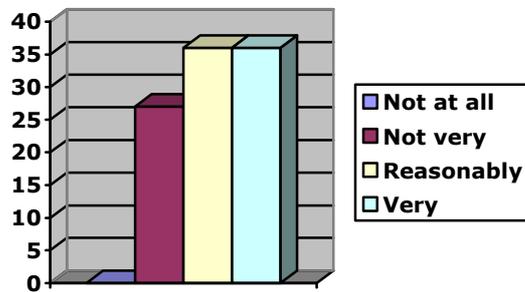
In some institutions they have paper-based appeals but the member of staff dealing with the complaint/appeal will interview the student. It was felt quite strongly amongst students' unions that the student has a chance to present their information in person, whether to the investigating officer or the panel itself.

Student relationships with staff

When advisers were asked whether they are aware of students being afraid of making a complaint or appeal due to how it may affect their relationship with staff all the respondents replied that they were aware of this happening.

When asked about how widespread they think it is 73% replied that they believed it was "reasonably" or "very" widespread. It was also suggested that this was more prevalent among research students. Postgraduate research students will often have a one-to-one relationship with their supervisor and so the relationship is particularly key. The student feels that they need to remain on good terms with their supervisor and there were reports of threats of funding being withdrawn as well as other threats.

Chart D: How widespread do you think students not making complaints due to fear of damaging their relationship with their tutor is?



This area of perception about the process is one of the key concerns for students and institutions need to show that they will respond and that they will respond quickly to prevent any adverse reaction from the person being complained against.

It was however commented that in the exceptional case the complaint may be made maliciously by the student against a member of staff and it is important that staff are also protected in these cases.

It was also commented that students need to go through the whole process and then on the OIA before they can comment about how the process has been conducted. Therefore if there is a concern at an early stage that the procedure has not been properly followed then the student may need to wait many months before this is addressed.

Student views on the impartiality of the process

When asked what they thought would make the process more impartial. There were several suggestions including having an independent person such as an ombudsman or being provided with more detail about the investigations.

It was commented that in some cases the complaint was dealt with by a member of staff in the same department and this was a cause of concern amongst some students. NUS believes that there should not be faculty involvement where the complaint relates to the faculty. As one adviser said, "I think they are worried that the University will always take the side of a University staff member/ procedures over their side."

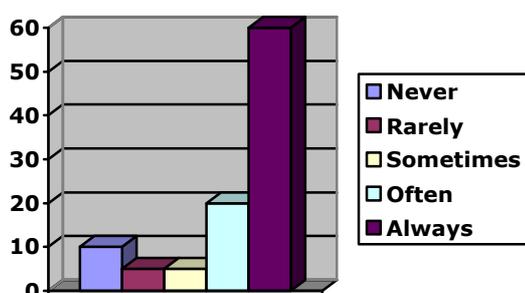
The fact that there is a representative from the students' union on hearing panels for both complaints and appeals was highlighted as a positive feature of some procedures.

It was also commented that student views are sometimes unrealistically high and that this can impact on the expectations of students about the procedures.

The role of the OIA was also highlighted, the fact that students can take their complaints/appeals to the OIA shows students that there is an independent organisation if they remain unhappy with responses from internal procedures. Students' unions were therefore keen for the role of the OIA to be further highlighted.

When asked whether their institution gives adequate and timely information about the OIA it was encouraging to see that 80% of students' unions replied that their institutions provided this information often or always. Although there are still a number of institutions where more could be done to better publicise the role of the OIA.

Chart E: Does your institution give adequate and timely information about the OIA



Institution-wide procedures

Most institutions have institution-wide procedures although the procedures are often used in different ways. It was commented that where there are departmental procedures the institutional procedures take precedence. It was also noted that whilst there are institution-wide procedures some departments may take slightly different approaches at the "local" informal level. This is partly due to the fact that not all school staff are aware of the proper procedures.

In a number of institutions the procedures are dealt with at the faculty or departmental level in the initial stages. In these cases there is some variance in the way in which departments implement the regulations during these early stages.

It is also important these institution-wide procedures apply to all students studying a qualification awarded by the institution. This means that if the student is studying via

distance-learning or the course is franchised to an FE college or a provider overseas the student should still be able to have recourse to the same procedures.

Role of the students' union

The role of the students' union was also raised. The students' union is there to support the student and this means that they if they think the case does not have merit then they should be honest with the student. It was however strongly felt that it was the role of the students' union to support the student, even if they believed the case to be vexatious, and indeed there were examples of cases where the students' union thought the case did not merit that ended up being upheld.

Recommendation 11: All staff that deal with complaints and appeals procedures should receive training from their institution, supported as appropriate by the OIA, and that this should be extended to academic staff, especially if they are also personal tutors.

Recommendation 12: If an institution does not adhere to its own timetable then it should provide a detailed explanation why not.

Recommendation 13: All complaints and appeals should be dealt with within three months of it being lodged with the institution. In the small number of cases where the student believes that the institution is dragging its feet, and the student has met the deadlines, they should also be able to go straight to an external body – possibly the OIA.

Recommendation 14: Institutional complaints and appeals procedures should not have more than four stages. These could include an informal stage, a formal stage that may include mediation, and an appeals stage.

Recommendation 15: Institutions should make explicit that they will respond quickly to any cases where there is a break-down in relationship between the student and the person they are complaining about on the basis of their complaint.

Recommendation 16: If students have concerns about whether the procedures has been effectively followed at an early stage of the process they should be able to raise this at the time, rather than having to wait until they reach the OIA.

Recommendation 17: There should be clear information on what evidence is required by, or acceptable from, the student as part of the complaints and appeals procedures. There should also be greater clarity about both the burden of proof and standard of proof.

Recommendation 18: Students should be given the option of presenting their case in person if they want and also to have support from a friend or students' union representative if requested.

Completing the circle – Feeding back to students and students’ union

When asked whether their institution keeps a record of the number of complaints the vast majority replied that they did, although there was a comment that this happens less at the local level and for informal complaints. Some students’ unions replied that whilst the institution gathered this information it was not available to the students’ union.

It was noted that in almost 80% of institutions they did not publish the percentage of upheld cases. In almost a third of institutions they do not make regular reports to one of the main committees about complaints and appeals. In the remaining two-thirds of cases this report went to a variety of different bodies but usually the Senate or Academic Board.

Broader concerns

This report has looked at complaints from the individual perspective, where one student has a complaint about a specific issue. It should, however, be noted that some complaints are indicative of broader, more systemic, concerns. It is by monitoring the statistics that institutions will be able to identify issues that are broader.

It is worth highlighting that the QAA has recently revamped their Causes for Concern section on their website to give greater prominence to this process, (<http://www.qaa.ac.uk/causesforconcern/concern.asp>). This process addresses issues which “appear likely to jeopardise the institution’s capacity to assure the academic standards and quality of any of its HE programmes and/or awards”. Students, and students’ unions, should be aware that if they think a complaint that they have is of broader importance, and the institution is not tackling this, that they can take this to the QAA.

Informing students and students’ unions

In 70% of institutions they always give students reasons for their decision although in some cases this is only in the vaguest terms and another replied that institutions do not voluntarily give a report on their findings and that it would be helpful. It was also noted that in over 80% of cases the students’ union is not officially informed by the institution about the outcome of the case, even where they have supported the student through the process.

It was also noted that the students’ union is not automatically informed by the OIA of the outcome of cases that go there unless the students’ union is designated by the student as the lead contact.

We believe that if the students' union has supported the student through the process that they should be officially informed of the outcome. If the students' union has not supported the student there will be confidentiality issues but the OIA could suggest to the student that they may wish to inform the students' union of the outcome to prevent similar cases in the future.

When asked about how the institution review their procedures, one students' union replied that their institution review their procedures on an annual basis and following particularly problematic cases.

Resolutions

As outlined in the Dearing Review part of the reason why the OIA was created was to provide an alternative route to litigation. As highlighted earlier, litigation can become adversarial, expensive, can take significant amounts of time and may ultimately be less likely to produce the outcome that students actually want.

The survey looked at the outcomes from complaints and appeals. The most commonly cited outcome from appeals was allowing the student to retake or to be readmitted to their course. For complaints the most common resolution was an apology and in some cases financial remuneration.

Recommendation 19: Institutions should make information available about the number of complaints and appeals to students' union, both the overall number and those upheld in full or in part. This information should also include the data about complaints and appeals concerning all the qualifications that they accredit, even if it is delivered in an FE college or overseas.

Recommendation 20: Institutions should also include information about their response to complaints, such as what they have done to review the procedures.

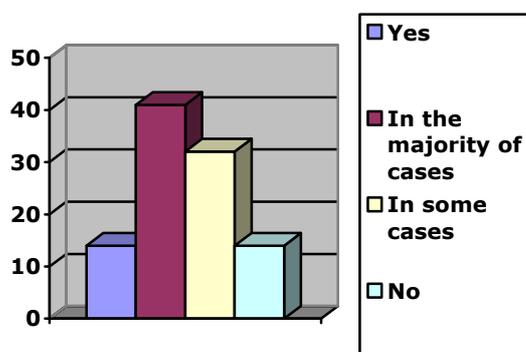
Recommendation 21: That the OIA informs the students' union at the institution of all cases referred to them where the students' union has supported the student through the process. The OIA should also suggest to students that did not receive support from their students' union they may want to inform the students' union of the outcome of their case to prevent similar cases in the future.

Perceptions

The first three precepts of the QAA Code all relate the general principles for complaints and appeals procedures including that they are “fair, effective and timely” and that students can “raise matters of concern without risk of disadvantage”. It is therefore important to monitor the perceptions of students to the institutional procedures.

It was concerning that in response to the question “Do you consider your institutional complaints procedure to be transparent, fair and just?” only 14% of respondents said “yes” with a similar number saying “no”. 41% said that they believed them to be fair in the majority of cases with 32% saying that they only believed the procedures to be fair in “some cases”.

Chart F: Do you consider your institutional complaints procedure to be transparent, fair and just?



There were a number of reasons cited for why they did not believe the procedures to be fair, including at one pre-1992 university where the respondent said that “It does seem as though the University is more inclined to take the word of the school over that of the student where there is no conclusive evidence on either side.”

Other reasons cited by respondents include that there is “not enough transparency” and a perception amongst students that the university always seems to “look after their own”. It was also commented that the institution can be reluctant to accept blame for things.

It was interesting to note that a large proportion of students’ unions that responded replied that their institution had reviewed their procedures within the last 18 months and that in the vast majority of cases the students’ union had been involved in this process, one respondent replying that they were involved in reviewing the procedures and that a number of their recommendations were taken on board.

Recommendation 22: That institutions should do more to tackle student perceptions of their procedures. Institutions should conduct institution-wide research into the views of their students as part of their annual student surveys.

Recommendation 23: That institutions review their procedures on a regular basis and that they include representatives of their students' union in the process to improve the perception of their fairness.

Recommendation 24: That institutions should consider having a student sitting on, or observing, the complaint or appeal panel to reassure students of the robustness and fairness of the procedure.

Annex 1:

Responses received from the following students' unions:

Anglia Ruskin University

Bath Spa University

University of Birmingham

Bournemouth University

Buckinghamshire New University

Brunel University

Coventry University

De Montfort University

Goldsmiths, University of London

University of Kent

Kingston University

University of Leeds

Manchester Metropolitan University

University of Nottingham

Northumbria University

Oxford Brookes University

Queen Mary, University of London

University of Reading

Staffordshire University

Swansea University

Swansea Metropolitan University

Thames Valley University

University of the West of England

Annex 2 – NUS Survey sent to students’ union advisers

NUS Research Institutional Complaints and Academic Appeals Procedures

NUS receives anecdotal evidence that complaints and appeals procedures differ markedly between and within institutions. There are examples of appeals taking several years to resolve, students giving up during the process and an 11 stage process in one institution. We therefore wanted to gather some evidence about institutional procedures to see if there is a problem and what is the extent of it.

Many institutions operate a single complaints system which embraces both academic and non-academic complaints however some institutions have separate procedures for handling complaints and appeals. If there are significantly different procedures for complaints and appeals please give details of both procedures. In this context by complaints we mean concern about the provision of a course/module, or a programme of study, or a related academic service. Most institutions also have many different procedures for disciplinary issues, harassment, fitness to practise etc, if there are major differences or you have concerns with these please let us know.

If there are any areas that are missed out below please feel free to provide additional information. Also if there are specific implications for different groups of students such as, for example, international students or nursing students or differences between types of students such as undergraduate/ postgraduate please also provide evidence of this.

NUS will produce a report in the Autumn based on this survey and may bring together a focus group to explore some of the issues in more detail. If you believe your institution has a particularly good complaints or appeals system please let us have a copy so that we can draw out some of the core principles.

Awareness of procedures

1. How aware would you say students are of the complaints and appeals procedures at your institution?

Not at all

Slightly aware

Reasonably well

Fully

2. How does your institution publicise its complaints and appeals procedures? (Tick all that apply)

- Distributed at enrolment/registration
- Student information service/student handbook
- Available from registry
- University Calendar/Catalogue
- Available in departments
- Personal tutor system
- Student Charter
- On their website
- Supporting students' union to publicise them
- Other, please specify?

3. Does your institution provide additional relevant information at the time a complaint or appeal is made?

Yes

No

Informal procedures

4. Does your institution have an informal mechanism for dealing with complaints/ appeals, such as a campus ombudsman/ mediation services?

Yes

No

Don't know

If yes, how?

5. Does your procedure contain a requirement for the student to speak to someone within the department informally as part of the procedures, but without formal mediation?

Yes

No

Don't know

Do students find this useful?

6. How often does this informal procedure resolve the issue? (Please circle or highlight the most appropriate answer)

Never Rarely Sometimes Often Always

7. Are students informed at the end of the informal stage about the next steps?

Yes No Don't know

8. Do you have any comments about the informal stages?

Formal procedures

9. Does your institution provide training to institutional staff dealing with complaints and/or appeals?

Yes No In some cases Don't know

10. Does your institution have a maximum time-limit in which a student has to complain/appeal? What is this time limit?

11. Does your institution have a maximum time-limit in which it will deal with a complaint or appeal?

Yes No

If yes, how long?

12. Does your institution always adhere to this time-limit?

Never Rarely Sometimes Often Always

13. What is the longest time taken for a student to complete the institutional complaints/appeals procedure?

14. How many stages does your institutional procedure have?

15. Are there clear guidelines outlining how a complaint/appeal can be satisfactorily proved?
Such as what constitutes 'sound evidence'?

16. Can a student present his/her case in person?

Yes

No

17. Can a "friend"/ representative of the student accompany them and present the case on their behalf?

Yes

No

18. Are complaints procedures the same across your institution or do different departments have different procedures? If there are differences between departments procedures which take precedence – institutional or departmental?

19. Are you aware of students being afraid of making a complaint or making an appeal due to how it may affect their relationship with staff?

Yes

No

20. How widespread do you think this is?

Not at all

Not very

Reasonably

Very

21. In your experience do students consider the process impartial?

If not what would make it seem more impartial?

Completing the circle – Feeding back to students and students' union

22. Does your institution record the number of complaints?

Yes

No

Don't know

If yes how many were there in the last year of available data?

23. Does your institution publish the percentage of upheld cases?

Yes

No

Don't know

If yes, how many were there in the last year of available data?

24. Is a regular report on complaints/ appeals made to one of the main bodies of the institution (eg to the Senate/Academic Board)

Yes

No

If yes, to which body and how often?

25. If your institution doesn't publish official data on the number of upheld complaints how many do think there were?

26. Are reasons given to the students for the decision?

Never Rarely Sometimes Often Always

27. Is the students' union officially informed about the outcome of a case where they have supported a student?

Yes No

Does this include feedback from when it comes back from the OIA (in England and Wales), Public Services Ombudsman (in Scotland) or Visitor (in Northern Ireland)?

28. Does your institution outline changes that it will make to the procedure following any cases that are upheld?

Resolutions

29. What is the usual outcome when an academic appeal is upheld?

- allowing the student to retake
- work remarked by another academic
- readjusted the mark/grade
- readmitted a student removed from their course
- offered financial compensation? If yes, on average how much?
- other, please state

30. What is the usual outcome when a complaint is upheld?

- an action plan of how they will deal with the complaint
- offered financial compensation? If yes, on average how much?
- other, please state

31. Does your institution automatically offer a Completion of Procedures letter?

Never Rarely Sometimes Often Always

32. Does your institution give adequate and timely information about the OIA (in England and Wales), Public Services Ombudsman (in Scotland) or Visitor (in Northern Ireland)?

Never Rarely Sometimes Often Always

Perceptions

33. Do you consider your institutional complaints procedure to be transparent, fair and just?

Yes In the majority of cases In some cases No

If not, why not?

Reviewing the institutional complaints or appeals procedure

34. Has your institution reviewed their complaints or appeals procedures in the last 18 months?

Yes No Don't know

35. If yes, was the students' union involved in this process?

Yes No

Case studies

Do you have any students that have had a particularly bad experience of your institutional processes? Could you give a short overview of the case, in no more than 200 words. Would they be willing to be contacted by the media in case of interest?

Information about your Institution

Would your institution be described as a:

Pre 1992 University (eg Russell Group or 1994 Group)

Post 1992 University (eg Million Plus or GuildHE institution)

If you would be willing to be contacted to attend a focus group to explore some of these issues in more detail please give us your contact details:

Name:

Position:

Institution:

**Please return this form to Alex Bols, Head of Education and Quality, NUS
(alex.bols@nus.org.uk), Centro 3, 19 Mandela Street, London NW1 0DU by 11th
August 2008.**

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