Section 48 Appeals: policy and procedure

48.1 Scope

48.1.1 This policy applies to students as set out in section 1. For the purposes of this procedure, 'student' includes current students and former students where the appeal is submitted within the permitted timeframe.

48.1.2 The procedure to be followed in relation to programmes delivered by a validated partner organisation (validated provision) is explained in the section 48.12 below, but students should also refer to documentation provided by the partner organisation.

48.2 Policy introduction

48.2.1 Students should note on their 'Appeal' form if they have a disability that requires the University to make reasonable adjustments to accommodate their needs during the appeal process.

48.2.2 This is the procedure to follow if a student wants to appeal a decision of the University Assessment Board or of the School Assessment Board (the examiners).

48.2.3 Appeals against other decisions are processed as per section 48.10 of this policy.

48.2.4 Students cannot appeal against the academic judgement of the examiners or request a remark of their assessment. Academic judgement means the exercise of academic expertise in assessing academic performance and includes, marks awarded, degree classifications and evaluative academic opinions. If a student has concerns about the mark or feedback they received, they should discuss them with the module tutor or programme lead. All assessments follow the University's marking and moderation procedures, which include review by external examiners. Further details on these processes can be found in section 24 and section 39. The Module Lead/Director or Programme/Course Lead can provide clarification and discuss the feedback received.

48.2.5 Students can appeal against an assessment decision if they believe and have evidence that any of the following apply:

a) There were relevant exceptional circumstances (for example, illness), and the student has a good reason for failing to notify the Exceptional Circumstances Panel of these sooner. Normally a student must inform the Exceptional Circumstances Panel by the assessment deadline (or up to 5 working days after the deadline in the case of examinations), by using the 'Exceptional Circumstances' procedure (refer to section 13). A 'good reason' means that circumstances are beyond a student's control and prevented the student from disclosing the relevant circumstances at the appropriate time. Personal embarrassment or unwillingness to disclose personal circumstances are not considered 'good reason' for the purposes of an appeal.

b) Where a student did notify the Exceptional Circumstances Panel earlier about exceptional circumstances or some other disruption of the assessment process, but there is clear evidence that the exceptional circumstances procedure was not correctly followed. The fact that a student disagrees with the way in which their exceptional circumstances were considered is not in itself grounds for appeal.

c) A procedural irregularity has occurred. A procedural irregularity includes failure to follow published regulations, bias or perceived bias, failure to consider relevant evidence, or material administrative error.

48.2.6 Students can appeal:

a) The decision to withdraw a student's enrolment (enforced withdrawal).

b) The decision on whether a student can progress within their programme.

c) The opportunity for a reassessment.

d) The application of a capped mark.

e) [Research students only] The decisions reached by the Transfer Panel affecting progression.

This list reflects decisions capable of review under the Office of Independent Adjudicator Scheme rules.

48.2.7 If a student believes that their reasonable adjustments have not been put in place in a timely way, and their marks have been agreed, they can submit an appeal form to casework@yorksj.ac.uk with the relevant details. The Student Casework team will consult with the Disability Support and Inclusion team to confirm whether delays occurred. If the Disability Support and Inclusion team confirms that there were delays, the student will be permitted a further attempt at the assessment. This will be capped or uncapped depending on the previous attempt. If the Disability Support and Inclusion team does not confirm delays, the Student Casework team will provide guidance on alternative next steps. Students may still submit an appeal under the grounds outlined in **section 48.2.5** above.

48.2.8 If a student's marks have not yet been agreed but they believe reasonable adjustments have not been put in place in a timely way, students should contact their School (via their tutor or programme lead) for advice. The School may submit a case to the Special Cases Panel.

48.2.9 If a student believes they have received the incorrect mark for an assessment, they should first speak to their School to query this. If the School establish an error in mark entry has occurred, guidance can be sought from the Assessment team in Registry to correct this.

48.2.10 This appeal procedure may only be used where a student is seeking to have an examiners' decision reviewed. If a student is dissatisfied with teaching or other service provision, the student should use the 'Complaints Procedure' instead. If a student submits an appeal that the Head of Governance and Compliance believes would be more appropriately dealt with as a complaint, the University may decide to follow the complaints procedure instead of, or as well as, the appeals procedure.

For more information, please visit our concerns and complaints page.

48.2.11 This procedure does not apply to an appeal relating to a finding of academic misconduct such as cheating or plagiarism – there is a separate Academic Misconduct Policy for this (refer to section 27).

48.2.12 This procedure applies to current students and also applies to students who have previously withdrawn or graduated provided the appeal is submitted within the appeals timeframe detailed in section 48.6.4.

48.2.13 The immigration status of sponsored students on a Student Visa will be affected by an enforced withdrawal of enrolment; the change of circumstance will be reported to UK Visas and Immigration (UKVI). The report to UKVI will not be withdrawn just because a student has submitted an appeal. The report to UKVI will only be withdrawn if the appeal is successful and the student is permitted to return to the programme.

48.2.14 If a student's enrolment has been withdrawn (enforced withdrawal), or their status has been set to externally resitting or suspending study, they are no longer entitled to participate in teaching and learning activities. They should not attend or participate pending an appeal outcome. If an appeal is upheld, they will be notified when they will be able to re-enrol and resume their studies. If they are set to externally resitting, they will still be able to submit assessments and participate in support sessions relating to the assessment(s).

48.2.15 Indicative timescales for the University's response are provided below. The University aims to complete internal appeal procedures within **90 calendar days** in line with OIA good practice. Where delays occur, students will be informed of reasons and revised time scales. For cases where the student holds a Student Visa the expiry date of that visa will be taken into account.

48.2.16 Appeals relating to the decisions of examiners are ultimately eligible for review by the Office of the Independent Adjudicator for Higher Education. For more information refer to section 48.11. Students who have completed internal procedures may be issued with a Completion of Procedures letter where required to enable access to independent review.

48.3 Principles

48.3.1 The appeals procedure shall be implemented with due regard to the need to eliminate discrimination, harassment and victimisation, advancing equality of opportunity, and fostering good relations. The procedure applies equally to all students irrespective of age, disability, gender identity, pregnancy or maternity, race, religion or belief, sex, or sexual orientation.

48.3.2 The University is committed to procedures that are fair and transparent, and decisions that are reasonable and have regard to law. Decisions will be evidenced based, proportionate, and explained clearly with reasons.

48.3.3 All staff involved in deciding a student's appeal will do so impartially. No staff members with a material personal interest in the appeal will be involved in deciding the appeal.

48.3.4 A student will not be treated less favourably by the University because of making an appeal. A student can expect their appeal to be dealt with seriously and constructively, once it is made in good faith. Vexatious or malicious appeals may be addressed separately under the Student Behaviour and Disciplinary Policy.

48.3.5 Where an appeal is upheld, the University will offer what it deems to be an appropriate remedy. The remedy must be in line with the University regulations, for example, if conditional progression is approved this must only be approved where the student has achieved 100 credits. Remedies will be appropriate, proportionate and consistent with maintaining academic standards. If the student does not have 100 credits, conditional progression would not be permitted, and the student would need to complete an external resit. If the appeal is following a Support to Study meeting, as detailed in section 19.3, the University will follow its standard appeal procedures for such appeals. If the Appeals and Conduct Committee upholds the appeal, the case will be referred back to a new Visa Compliance Review to be considered afresh.

48.3.6 Where an appeal is upheld and the remedy offered is to permit the student to return to a programme of study (including restarting or repeating study):

a) This will be permitted for the current academic year provided the outcome has been communicated to the student before the end of week 2 of that academic year or the affected semester.

b) This may be permitted for the current academic year in circumstances where the outcome has been communicated to the student before the end of week 4 of that academic year or the affected semester. This will depend on the structure of the programme and the timing of any assessments. Where this is offered to the student, a Return to Study meeting must be held prior to re-enrolment (see section 19.5). A student cannot use this late return to study as subsequent grounds for an appeal or a request for exceptional circumstances. Decisions regarding timing of return will consider academic feasibility, student wellbeing, visa requirements and fairness to the student cohort.

c) This will not be permitted for the current academic year where the outcome has been communicated to the student after the end of week 4 of that academic year or the affected semester. If a student is eligible to suspend studies, this will be required. The student will then be permitted to re-join study at the next available point (normally the following academic year).

It should be noted that there may be circumstances where a student is not eligible to suspend studies due to maximum periods of study restrictions as specified in the University Regulations and programme specification. In those circumstances, this may result in the appeal being dismissed on the grounds that there is no valid remedy open to the Appeals and Conduct Committee.

d) If the date of the return to study means that a student has missed any teaching, a Return to Study meeting must be held **within 5 working days** of the resumption

48.3.7 Appeals submitted with fraudulent evidence or based on false exceptional circumstances will be considered as deception and will be subject to the University's Student Behaviour and Disciplinary Policy and procedures, which may lead to the appeal not being processed or referred to the Appeals and Conduct Committee. The Student Casework team will refer any concerns to the University Disciplinary Officer who will determine if any action will be taken. Students will be informed of concerns and given an opportunity to respond.

48.3.8 The appeal can normally only be started and progressed by a student themselves. A third party may not do it on a student's behalf, unless there are exceptional circumstances, agreed by the Chair of the Appeals and Conduct Committee. This does not affect a student's right to have a supporter during a Committee hearing as set out below in section 48.8.

48.3.9 Where the issues raised affect several students, students may submit a group appeal. The University retains the discretion to communicate directly with some or all of the students individually, particularly where the substance or circumstances of the appeal differ, and to reach different decisions where it deems this to be appropriate. In processing a group appeal, the University may ask the group to nominate one student to act as group representative, to communicate on the group's behalf with the University and to liaise with the other students. Each student needs to communicate in writing to the Student Casework team (casework@yorksj.ac.uk) their wish to be represented by the designated individual.

48.3.10 A student may withdraw the appeal at any point in the process by sending an email marked 'withdrawal of appeal' to the Student Casework team at casework@yorksj.ac.uk.

48.3.11 Details of a student's appeal will be kept confidential, except where the disclosure is necessary to progress the appeal or implement a decision on the appeal, or where it is required by law or in the public interest. If there are elements of an appeal which are particularly sensitive and a student has particular concerns about their confidentiality, the student is welcome to indicate this fact to the Student Casework team (casework@yorksj.ac.uk) who will discuss with the student how disclosure can be minimised.

48.4 Support and advice before making an appeal

48.4.1 Before making an appeal, the University recommends that the student request an informal discussion with appropriate staff from their School. This is to ensure that the student fully understands the decision, the reasons behind it and the implications for their progression and/or award. **A student's results will not be changed because of this discussion**, but it may help a student to clarify whether an appeal is an appropriate step to take.

48.4.2 Students may find it helpful to ask the Students' Union for advice and guidance on their intended appeal. For more information, visit the Students' Union page.

- E: su.advice@yorksj.ac.uk

48.4.3 Students who have any questions about how the appeals process works should contact the Student Casework team (casework@yorksj.ac.uk).

48.5 Records, monitoring and review relating to the policy and procedure on appeals against the results of examinations and assessments

48.5.1 The University will keep and dispose of all correspondence relating to appeals in accordance with the appropriate principles on data protection available on our data protection page.

48.5.2 A report on appeals and their outcomes will be produced annually and submitted to the Quality and Standards Committee and University Assessment Board for consideration. A summary report will be considered by Academic Board and the Board of Governors through the Annual Quality Report. This process will ensure appropriate monitoring of all appeals and related outcomes and is intended to facilitate learning from appeals.

48.6 How to appeal

48.6.1 Appeals should be made on the 'Appeal' form and submitted to casework@yorksj.ac.uk. Students are advised to request a 'read receipt'.

48.6.2 On the form, students must make a full statement of **all grounds** of appeal and submit this with all necessary **supporting evidence**. This may include death certificates and/or notes from doctors concerning health conditions. Refer section 13.10 of the Exceptional Circumstances Policy which details suitable types of evidence that could be used for different scenarios. The student will generally not be allowed to introduce new material later in the appeal process. Supporting evidence should be provided in English. Where the original document is in another language, the student must provide both the original document and a translation into English. This need not be a professional translation – the student may provide their own translation. The student can expect the University to check the accuracy of their translation.

48.6.3 The student should use the form to describe what remedy they are seeking. Students are not required to identify the exact regulatory outcome sought; the University will determine appropriate remedy, if grounds are established.

48.6.4 The deadline for submission of appeals is **10 working days** following the publication of results. Where progression is affected, students are advised to appeal as soon as possible.

48.6.5 Appeals received beyond the specified time period will not normally be considered. Special consideration will only be given exceptionally, where the student provides a substantiated, valid reason for any delay, in writing and in conjunction with the late submission. If the student believes that a valid, substantiated reason for the delay has been provided but not accepted, the student may challenge the decision not to accept by writing to the Vice Chancellor **within 10 working days** of the decision by completing the form. If the Vice Chancellor agrees with the challenge, the appeal will be considered in the usual manner described below. If the Vice Chancellor does not agree with the challenge, a Completion of Procedures letter will be issued which will allow the student to raise the out of time issue with the Office of the Independent Adjudicator for Higher Education (OIA) – refer to section 48.11.

48.6.6 Students should expect to receive an acknowledgement of their appeal **within 5 working days**.

48.6.7 Any correspondence from the University shall be deemed to have been delivered 48 hours after emailing or posting to the address notified to the University by the student. Students must keep the University informed of any changes of address.

48.6.8 The University's preferred means of correspondence is email as this enables communication to be quick and efficient, students should indicate if they prefer to correspond by letter.

48.7 What will happen

48.7.1 The Student Casework team will assess appeals individually, on its merits and without presumption, relying on objective data sources where possible. A response from the student's School may be requested where programme specific regulations have a direct and material impact on the case.

48.7.2 For cases relating to delays in reasonable adjustments, a written statement from the School on a student's classroom engagement or assessment performance may be sought where this information is not otherwise available and where it is directly relevant to informing future Learning Adjustment Plans (LAPs).

48.7.3 The Student Casework team will contact Finance to check if the student owes any fees and any details on the communications the Finance team have had with the student about outstanding fees/debts. This information will be considered as necessary at the outcome stage of the appeal.

48.7.4 Where necessary, the Student Casework team will also request a response from the Visa and Compliance team.

48.7.5 The case will be reviewed by a Panel, normally composed of at least two members of the Appeals and Conduct Committee. Panel members will receive appropriate training in appeals decision making.

48.7.6 There are 4 possible outcomes from this Panel review:

a) The matter is to be remedied without further recourse to the Appeals and Conduct Committee. This means that the student will be offered a remedy without any need for a Committee hearing.

b) The appeal is to be heard by the Appeals and Conduct Committee (refer to next section).

c) The appeal to be dismissed on the grounds that the application does not show on the face of it that there is a case to be answered.

d) The appeal is to be dismissed on the grounds that there is no valid remedy open to the Appeals and Conduct Committee.

48.7.7 Where an appeal is upheld, and a student has outstanding fees/debt, any remedy offered will be contingent on those outstanding fees/debts being resolved. The University will ensure that any conditions relating to payment are reasonable, proportionate, and clearly communicated. Should the student fail to make payment or adhere to any agreed payment plan, they may be withdrawn in accordance with the Student Financial Regulations.

48.7.8 If the student is not happy with this decision, including if they do not wish to accept the remedy offered, they may complete the 'Appeal to Vice Chancellor' form to refer the case to the Vice Chancellor **within 10 working days** from the date on the Panel decision. The Vice Chancellor or delegate will review the case and make a final decision on whether the Committee should consider the appeal further. If the Vice Chancellor or delegate upholds the Panel's decision, the student has come to the end of the University's appeal procedure. The student will receive a 'Completion of Procedures' letter. If the student remains dissatisfied, they have **12 months** to apply for a review by the Office of the Independent Adjudicator for Higher Education, as set out in section 48.11 below.

48.8 Hearing by the Appeals and Conduct Committee

48.8.1 The Appeals and Conduct Committee has been given the power by the Academic Board to consider appeals. The Committee will create from its members a Panel to hear student appeals. It will not include any staff previously involved with a student's appeal, to ensure that the members are independent. Where appropriate, it may seek advice from or co-opt staff members who can offer specialist advice, for example, on equality and diversity matters.

48.8.2 If the Committee asks a student to appear before it at a hearing, the student may choose to be accompanied by a supporter as defined in section 2.1.11. If the student's supporter behaves inappropriately at any stage while the hearing is being dealt with, this person will be asked to withdraw involvement. It is not normally expected that the student will have legal representation, but if the student believes it is justified in the circumstances, the student should make these reasons known to the Head of Governance and Compliance, as Chair of the Appeals and Conduct Committee, **at least 3 working days** in advance of the hearing. If the Chair believes the student has established compelling grounds for legal representation, it will be permitted.

48.8.3 Audio or video recordings of the meeting must not be made by the student or any accompanying person. AI notetaking software must not be used during the meeting by the student or any accompanying person.

48.8.4 If the student is unable to attend the meeting, which may take place physically or via videoconferencing, exceptionally the Committee will reserve the right to hear the appeal in their absence, drawing such conclusions as it deems appropriate. At the hearing, the student or student's supporter (where permitted) may make a statement, and the Committee may ask questions of them. The student and their supporter may consult each other. The Committee will also require a School representative to be available to appear before the Committee to answer questions. Students can expect the School representative to be present while the student is heard, and for the student to be present while the School representative is heard. Minutes are taken and are available to the student afterwards upon request.

48.8.5 It is not normally possible to introduce new grounds for appeal at this stage, unless it relates to evidence that could not have been provided sooner, for example, a medical specialist's report that the student received after they submitted their appeal.

48.8.6 The student and their supporter will be asked to leave the room while the Committee discusses the case. The School representative will also leave the room.

48.8.7 The Committee will decide whether the student has provided sufficient evidence to substantiate their claim on the balance of probabilities, for example, that what the student has claimed is more likely than not to be the case.

48.8.8 The student will not usually receive a final decision on the day of the hearing. The student will receive a final decision in writing, including the reasons for the decision, as soon as possible after the hearing, and normally **within 10 working days**.

48.9 Review by the Vice Chancellor

48.9.1 If a student is still dissatisfied with the decision, they may ask the Vice Chancellor of the University to review the case. The student must make this request by submitting the relevant appeal on the 'Appeal to the Vice Chancellor' form **within 10 working days** from the date on the letter notifying the student of the decision of the Appeals and Conduct Committee. This stage constitutes a review rather than a rehearing of the case. The Vice Chancellor's decision on the case will be final as far as the University's internal procedures are concerned. The Vice Chancellor may delegate the review to an appropriate person.

48.9.2 The Vice Chancellor (or delegate) has the discretion to permit late appeals to the Vice Chancellor to be considered, if there are exceptional circumstances justifying the later submission. Evidence may be requested in relation to this. If a late appeal is not permitted, the University will, if the student requests, issue the student with a 'Completion of Procedures' letter to allow the student to have the decision reviewed by the Office of the Independent Adjudicator.

48.9.3 The Vice Chancellor (or delegate) will review the decision on the following grounds only:

a) The decision of the Committee was unreasonable in the light of the evidence supplied.

b) The procedure for the hearing of the appeal was deficient in a way which materially prejudiced the student's case.

48.9.4 The Vice Chancellor (or delegate) will base the decision on the written material submitted to the first hearing of the case, a written statement of the outcome of the appeal and the student's written case. The Vice-Chancellor will not normally consider new grounds of appeal or new evidence, unless there is new material evidence which the student was unable, for valid reasons, to provide earlier in the process.

48.9.5 If the Vice Chancellor (or delegate) believes that the student has established grounds for appeal, the appeal will be returned to a new panel for fresh consideration.

48.9.6 The Student Casework team will send the student the decision of the Vice Chancellor's (or delegate's) review in writing as soon as possible and normally **within 10 working days**. If the student has not established grounds for appeal, the student has come to the end of the York St John University appeals procedure. The student will receive a 'Completion of Procedures' letter. If the student remains dissatisfied, they now have the opportunity to apply for a review by the Office of the Independent Adjudicator for Higher Education.

48.10 Appeals against other decisions

Against the outcome of a Visa Compliance Review Panel (refer to section 20)

48.10.1 A student may appeal the decision of a Visa Compliance Review meeting on the grounds of:

- A procedural irregularity in the process undertaken by the Visa Compliance Review Panel which has had a material impact on the decision.
- Where there is new relevant evidence that was not previously available and could have materially impacted the outcome.
- Exceptional circumstances not possible to have been made known at the time and could have materially impacted the outcome.

48.10.2 If a student appeals, the case will be considered by the University Secretary and Registrar and Academic Registrar, or their delegates. If the appeal is upheld, the case will be referred to a newly constituted Visa Compliance Review Panel. Any appeal must be made to the Student Casework team (casework@yorksj.ac.uk) within **10 working days** of the original decision. Where a student seeks to appeal but does not meet the grounds for appeal, or where an appeal is not upheld, a Completion of Procedures letter will be issued to enable the student to raise the matter with the OIA – refer to section 48.11.

Against an enforced withdrawal under the Student Financial Regulations

48.10.3 Where a student is withdrawn from studies as a result of breaching these Regulations, they can appeal the withdrawal on the grounds of:

- A procedural irregularity in the process undertaken under these Regulations which has had a material impact on the decision.
- Where there is new relevant evidence that was not previously available and could have materially impacted the outcome.
- Exceptional circumstances not possible to have been made known at the time and could have materially impacted the outcome.

48.10.4 If a student appeals, the case will be considered by the University Secretary and Registrar and Academic Registrar, or their delegates. If the appeal is upheld, the case will be reconsidered under these Regulations. Any appeal must be made to the Student Casework team (casework@yorksj.ac.uk) within **10 working days** of the original decision. Where a student seeks to appeal but does not meet the grounds for appeal, or where an appeal is not upheld, a Completion of Procedures letter will be issued to enable the student to raise the matter with the OIA – refer to section 48.11.

Against a decision not to process a refund under the Student Financial Regulations

48.10.5 Where the University makes a decision that an enrolled student is not entitled to a refund of tuition fees or other charges under these Regulations the student may request a review of that decision. A student may appeal a refund decision on the following grounds:

- That there has been a procedural irregularity in the consideration of the refund which has had a material impact on the decision.
- That there is new relevant evidence that was not previously available and could have materially impacted the outcome.
- That there were exceptional circumstances not possible to have been made known at the time and could have materially impacted the outcome.

48.10.6 If a student appeals, the case will be considered by the University Secretary and Registrar and Academic Registrar, or their delegates. If the appeal is upheld, the refund decision will be considered in accordance with these Regulations. Any appeal must be made to the Student Casework team (casework@yorksj.ac.uk) within **10 working days** of the original decision. Where a student seeks to appeal but does not meet the grounds for appeal, or where an appeal is not upheld, a Completion of Procedures letter will be issued to enable the student to raise the matter with the OIA – refer to section 48.11.

48.10.7 Where the University makes a decision that a student not yet enrolled is not entitled to a refund of tuition fees or other charges, the student may request a review of that decision under the Applicant Appeal and Complaints Policy.

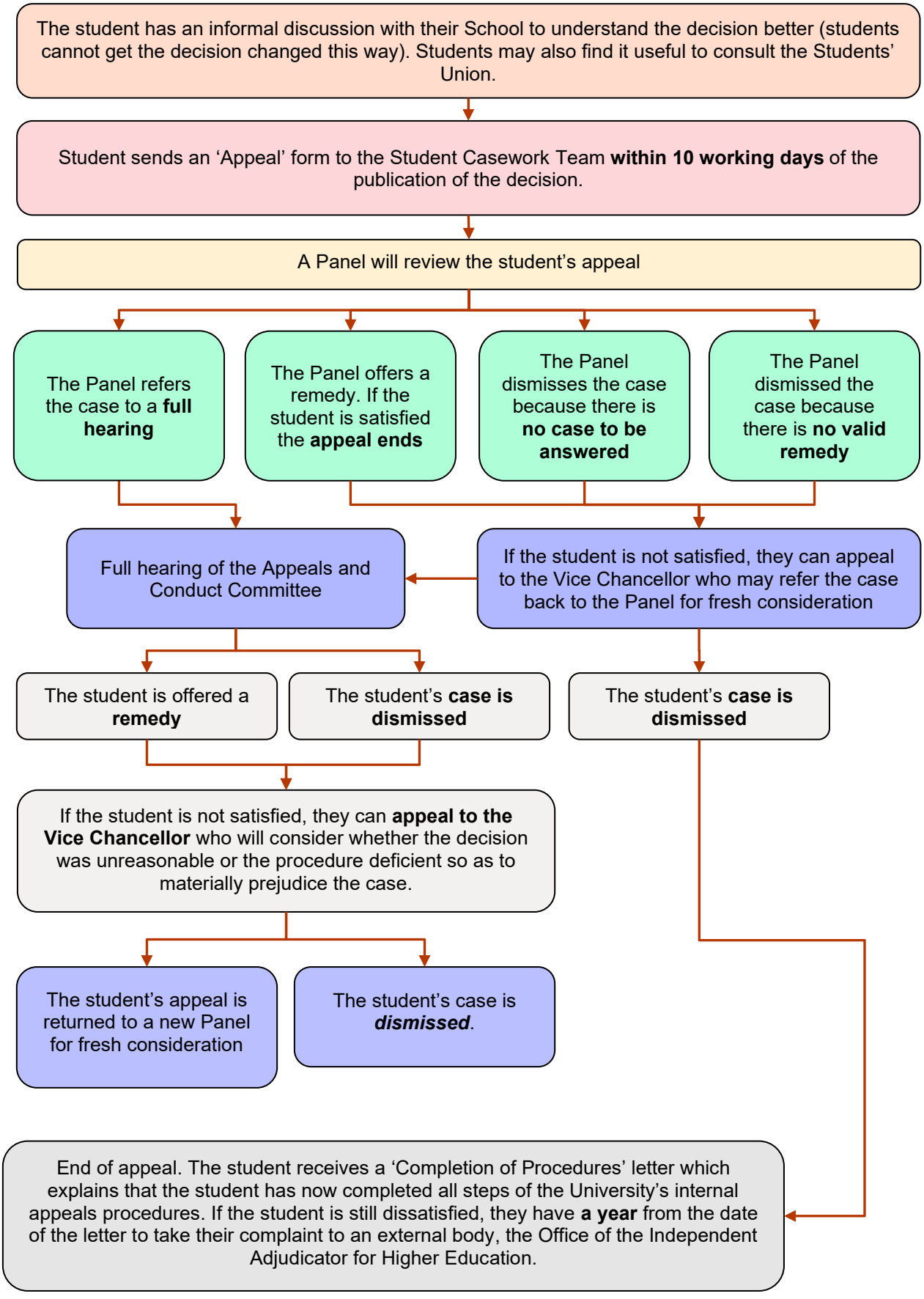
48.11 Office of the Independent Adjudicator for Higher Education

48.11.1 The Office of the Independent Adjudicator for Higher Education (OIA) is an independent body which was established by the Higher Education Act 2004 to consider student complaints which had not been resolved through an institution's internal procedures. If a student has received a 'Completion of Procedures' letter from the University and they remain dissatisfied with the outcome, they may ask the OIA to review their appeal. The deadline for an appeal to the OIA will be set out in the 'Completion of Procedures' letter. This service is free to students. For more information, please visit the OIA page.

48.12 Programmes delivered by a validated partner organisation

48.12.1 The procedure to be followed in relation to programmes delivered by a validated partner organisation will be set out in the student's handbook or other programme documentation. Students should follow those procedures. Where this entails initial consideration by the validated partner organisation there will be an opportunity, once the student has exhausted those procedures and if the student remains dissatisfied with the decision, to write to the Vice Chancellor, or delegate, at York St John University to seek a review of that decision. The student should do so by emailing casework@yorksj.ac.uk. Any such appeal should be received **within 10 working days** of the validated partner organisation's decision, setting out the details of their appeal. The Vice Chancellor, or delegate, will review the decision and make a decision which is final for the purposes of the University's internal procedures. A 'Completion of Procedures' letter will be issued so that if the student is still dissatisfied, they may then apply to have their case reviewed by the Office of the Independent Adjudicator for Higher Education.

48.12.2 The Vice Chancellor (or delegate) has the discretion to permit late appeals to the Vice Chancellor to be considered, if there are exceptional circumstances justifying the later submission. Evidence may be requested in relation to this.

48.13 Flowchart – how to appeal

48.13.1 This flowchart is designed to illustrate the procedure for appealing an academic decision. Students are advised to read the full procedure before submitting their appeal.