

Section 57 Appeals against the results of examinations and assessments policy and procedure

57.1 Scope

- 57.1.1 This policy applies to students enrolled on programmes for assessments delivered in whole by the University, or in whole or part by a franchise partner institution (franchise provision).
- 57.1.2 The procedure to be followed in relation to programmes delivered by a validated partner organisation (validated provision) is explained in the **section 57.12** below, but students should also refer to documentation provided by the partner organisation.

57.2 Policy introduction

- 57.2.1 The University is committed to equality of opportunity and an inclusive, accessible and welcoming environment for all students irrespective of their age, disability, gender identity, pregnancy or maternity, race, religion or belief, sex or sexual orientation. 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.
- 57.2.2 This is the procedure to follow if a student wants to appeal a decision of the Progress and Award Examination Panel or of the School Assessment Board (*the examiners*).
- 57.2.3 Students can appeal:
- The decision not to award an award
 - The class of award received
 - The decision to terminate a student's studies
 - The decision on whether a student can progress within their programme
 - The opportunity for a reassessment
 - The application of a capped mark
 - [Research students only] The decisions reached by the Transfer Panel affecting progression
- 57.2.4 Students cannot appeal against the academic judgement of the examiners. This is a decision where the opinion of an academic expert is needed, for example, the academic merit of an assessment. Students do not have the right to demand any remarking of an assessment.
- 57.2.5 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 University Secretary 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.
- <https://www.yorks.ac.uk/policies-and-documents/appeals-and-complaints/>
- 57.2.6 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 24**).
- 57.2.7 Appeals relating to the decisions of examiners for research awards are ultimately eligible for review by the Office of the Independent Adjudicator for Higher Education as described below.
- 57.2.8 This procedure applies to current students, which includes distance learners and those students who are suspending studies.
- 57.2.9 The immigration status of students who hold a Student Visa will be affected by a termination of studies; the change of circumstance will be reported to 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.

57.2.10 Indicative timescales for the University's response are provided below. The University will do its best to abide by the time limits set out in these procedures, but it may not always be possible to do so. The University aims to complete all the steps described in this procedure **within 90 calendar days** of the start of the appeal.

57.3 Principles

- 57.3.1 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.
- 57.3.2 The University is committed to procedures that are fair and transparent, and decisions that are reasonable and have regard to law.
- 57.3.3 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.
- 57.3.4 A student will not be treated less favourably by the University as a consequence of making an appeal. A student can expect their appeal to be dealt with seriously and constructively, once it is made in good faith.
- 57.3.5 Where an appeal is upheld, the University will offer what it deems to be an appropriate remedy.
- 57.3.6 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. (This does not affect a student's right to have a supporter during a Committee hearing as set out below). In exceptional circumstances, at the discretion of the University Secretary, a third party may submit an appeal on a student's behalf if the student provides written consent and a reason deemed acceptable by the University Secretary. Students can seek this consent by emailing casework@yorksj.ac.uk **within 10 working days** of the decision they wish to appeal, providing their reasons and relevant evidence. If either their supporter or representative behaves inappropriately at any stage during the appeal, that person will be asked to withdraw their involvement. Consent to representation will not be unreasonably withheld or withdrawn.
- 57.3.7 Where the issues raised affect a number of 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 Manager (casework@yorksj.ac.uk) their wish to be represented by the designated individual.
- 57.3.8 A student may withdraw the appeal at any point in the process by sending an email marked '*withdrawal of appeal*' to the Student Casework Manager at casework@yorksj.ac.uk.
- 57.3.9 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 Manager (casework@yorksj.ac.uk) who will discuss with the student how disclosure can be minimised.

57.4 Grounds for appeal

- 57.4.1 Students can appeal against an assessment decision if they believe and have evidence that any of the following apply:
- 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 five working days after the deadline in the case of examinations), by using the 'Exceptional Circumstances' procedure (refer to **section 17**). 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.
 - 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.
 - A procedural irregularity has occurred; the assessment was conducted unfairly or improperly; the assessment was biased.

For research students only, there is an additional ground of appeal:

- d) The academic supervision that received by the student was seriously inadequate. In such cases, the student must provide good reasons for not having made known their dissatisfaction with the supervision received before the decision against which they are appealing.

57.5 Support and advice before making an appeal

- 57.5.1 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 as a result of this discussion**, but it may help a student to clarify whether an appeal is an appropriate step to take. It is important to understand that the University must maintain academic standards, so an assessment outcome will only be changed as a result of an appeal where there is clear evidence that the original outcome was unsound.
- 57.5.2 Students may find it helpful to ask the Students' Union for advice and guidance on their intended appeal. Students who have any questions about how the appeals process works should contact the Student Casework Manager by email.
- E: casework@yorksj.ac.uk

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

- 57.6.1 The University will keep and dispose of all correspondence relating to appeals in accordance with the appropriate principles on data protection available on our webpages at: <https://www.yorksj.ac.uk/policies-and-documents/data-protection/>
- 57.6.2 A report on appeals and their outcomes will be produced annually and submitted to the Quality and Standards Committee for consideration. A summary report will be considered by Academic Board and the Governing Body 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.

57.7 How to appeal

- 57.7.1 Appeals should be made on the 'Appeal' form and submitted to casework@yorksj.ac.uk. Students are advised to request a 'read receipt'.
- 57.7.2 'On the form, students must make a full statement of **all grounds** of appeal and provide all necessary **supporting evidence**. This may include copies of emails to and from academic staff concerning their issue, death certificates, and notes from doctors concerning health conditions. 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.
- 57.7.3 The student should use the form to say clearly what remedy they are seeking.
- 57.7.4 The deadline for submission of appeals is **20 working days** following the publication of results. Where progression is affected, students are advised to appeal as soon as possible. Even if their appeal is successful, their progression may still be delayed as a result of the time taken by the appeal process.
- 57.7.5 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) – see **section 57.11.1**.
- 57.7.6 Students should expect to receive an acknowledgement of their appeal **within three working days**. If they have not received an acknowledgement **within five working days**, students should contact the Student Casework Manager (casework@yorksj.ac.uk) to check that their appeal has been received.
- 57.7.7 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.

57.7.8 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.

57.8 What will happen

- 57.8.1 The Student Casework Manager will request a response to an appeal from the student's School **within 10 working days**.
- 57.8.2 The Student Casework Manager will send the School response to the student so that if the student chooses, they may make a further written submission based on what the School has said.
- 57.8.3 The case will be reviewed by a Panel, normally composed of at least two members of the Student Appeals and Conduct Committee.
- 57.8.4 There are four possible outcomes from this Panel review:
- The matter to be remedied without further recourse to the Student Appeals and Conduct Committee. This means that the student will be offered a remedy without any need for a Committee hearing.
 - The appeal to be heard by the Student Appeals and Conduct Committee (see next section).
 - The appeal to be dismissed on the grounds that the application does not on the face of it show that there is a case to be answered.
 - The appeal to be dismissed on the grounds that there is no valid remedy open to the Student Appeals and Conduct Committee
- 57.8.5 If the student is not happy with this decision, 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 will review the case and make a final decision on whether the Committee should consider the appeal further. If the Vice Chancellor 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 57.11** below.

57.9 Hearing by the Student Appeals and Conduct Committee

- 57.9.1 The Student 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.
- 57.9.2 If the Committee asks a student to appear before it at a hearing, the student may choose to bring a **supporter** with them. The student may find it helpful to ask a representative from the Students' Union to be their supporter, but it can also be, for example, a friend or relative. The student will be asked to provide the name and capacity in which the supporter is attending in advance. 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 University Secretary **at least three working days** in advance of the hearing. If the University Secretary believes the student has established compelling grounds for legal representation, it will be permitted.
- 57.9.3 If the student is unable to attend the meeting physically, the student may request alternative arrangements such as use of video-conferencing. The request should be made to the Student Casework Manager (casework@yorksj.ac.uk). It will normally only be permitted to students who are outside the UK. Exceptionally, the student may request that a representative attend to speak on their behalf in their absence. If the University Secretary believes the student has established compelling grounds for such representation, it will be permitted.
- 57.9.4 If the student does not choose to appear before the Committee, the Committee will reserve the right to hear the case in their absence, drawing such conclusions as it deems appropriate. If the student fails to attend an arranged hearing without explanation or notice, the University reserves the right to dismiss the appeal.
- 57.9.5 At the hearing, the student or student's supporter 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.
- 57.9.6 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, e.g. a medical specialist's report that the student received after they submitted their appeal.

- 57.9.7 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.
- 57.9.8 The Committee will decide whether the student has provided sufficient evidence to substantiate their claim on the balance of probabilities, i.e. that what the student has claimed is more likely than not to be the case.
- 57.9.9 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**.

57.10 Review by the Vice Chancellor

- 57.10.1 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 Student Appeals and Conduct Committee. 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.
- 57.10.2 The Vice Chancellor will review the decision on the following grounds only:
- The decision of the Committee was unreasonable in the light of the evidence supplied.
 - The procedure for the hearing of the appeal was deficient in a way which materially prejudiced the student's case.
- 57.10.3 The Vice Chancellor 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.
- 57.10.4 If the Vice Chancellor believes that the student has established grounds for appeal, the appeal will be returned to a new panel for fresh consideration.
- 57.10.5 The Vice Chancellor or delegate will send the student the decision 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.

57.11 Office of the Independent Adjudicator for Higher Education

- 57.11.1 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 further details, see the OIA website: www.oiahe.org.uk.

57.12 Programmes delivered by a validated partner organisation

- 57.12.1 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 University Secretary at York St John University to seek a review of that decision. The student should do so by emailing casework@yorks.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 University Secretary 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 following the University Secretary's decision 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.

57.13 Flowchart – how to appeal

57.13.1 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.

