University Code of Practice

Academic Appeals (Taught Programmes)

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Summary/ Description:

This Code sets out the University's arrangements for academic appeals by students on taught programmes. Students can appeal against decisions made about assessment outcomes and decisions about their progression and award made by the Board of Examiners (at Module or Programme level), a Mitigating Circumstances Panel or an Academic Misconduct Panel.

Appeals by applicants relating to the decision whether to admit them to a programme are addressed in the Code on Recruitment, Selection and Admission (QH:C3). Appeals relating to applications for the recognition of prior learning are addressed in the Code on Credit Transfer and the Recognition of Prior Learning (QH:C4). Complaints by students (including academic and non-academic matters) are addressed in the Code on Complaints by Students (QH:G1). Note that appeals against decisions of Academic Misconduct Panels **must** be read subject to the provisions on appeals in the Code on Academic Misconduct (QH:C7).

An appeal can only be lodged on procedural grounds and not against academic judgement: an appeal cannot be lodged because a student disagrees with the mark or classification awarded. Procedural grounds covers a procedural irregularity by the decision-maker, such as not acting in accordance with the University's Academic Regulations or considering irrelevant factors in exercising discretion. An appeal is also possible where the decision maker was not aware of significant information, such as mitigating circumstances, which legitimately could not be submitted at the time of the original decision.

Students are encouraged to resolve matters before submitting a formal appeal, for example by approaching the Programme Coordinator. If it is recognised at this stage that a procedural error has been made it is possible to resolve the matter by referring it back to the original decision-maker without the need for a formal appeal. Decisions can only be changed by being re-considered by the relevant decision-making body (the relevant Board of Examiners or Panel) including marks awarded for a particular assessment.

Formal appeals must be submitted within 20 working days of the student being informed of the decision against which they wish to appeal. The Head of Academic Quality and Learning is responsible for determining whether an appeal appears to be valid. Provided the appeal appears to be valid, the Head of Academic Quality and Learning will establish a panel, members of which must be sufficiently independent of the student and the matter being appealed (such as not having been a member of the decision making body in question). Students have the right to speak and ask questions at the hearing and to be accompanied by a person of their choosing, provided that person only speaks if invited to by the Chair of the Appeals Panel and does not attempt to act as advocate for the student.

If the Appeals Panel upholds the appeal, the original decision will be declared void, with a direction made to the original decision-making body, usually to re-consider the decision. In some cases the Panel may direct that the student be allowed a new fresh attempt at an assessment or examination. In no circumstances is the Appeals Panel permitted to award or change a mark or classification or to award credit or a qualification. Such outcomes can only happen through reconsideration by the original decision-making body.

If the student is dissatisfied with the conduct of the appeal hearing they may seek a review by the Vice-Chancellor. The Vice Chancellor will consider whether there is evidence that the Appeals Panel failed to follow procedures set out in this Code.

If a student remains dissatisfied with the outcome of their complaint following the review by the Vice-Chancellor they have the right to take the matter to the Gibraltar Public Services Ombudsman. The communication informing them of the outcome of the VC's review must include agreed text advising them of that right and directing them to further information about how to progress the matter.

Further Guidance

See the Introduction to the Quality Handbook (QH:A1) for further guidance and explanations of:

- how the Handbook is designed to work and what it covers and does not cover
- how it is structured
- the 'external reference points' and established practice which have informed each of the Codes
- key concepts and themes
- some suggestions for further reading
- a quick guide to each Code, including definitions and things to watch out for.

This university Code has been written in accordance with the approach approved by the University to enhance clarity involving the following terminology: must = mandatory should = advisable may = desirable
Where these terms are used they are emphasised in bold.

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INTRODUCTION

Scope of the Code

1 This Code applies to programmes classified by Academic Board as taught and which lead to the award of the University's higher education qualifications (as set out in the Academic Regulations: Taught Programmes (QH:C1)).

2 An academic appeal is a challenge to an academic decision such as the award of a mark for an assessment, a final degree classification or decisions relating to applications for mitigating circumstances, absence from an examination or extension. The appeal seeks a change to that decision.

3 These procedures cover appeals against decisions made by the Board of Examiners (whether sitting as a Module or Programme Board), by Mitigating Circumstances Panels, by Academic Misconduct Panels (subject to the grounds for appeal set out in the Code on Academic Misconduct (QH:C7)) and Fitness to Practise Panels (subject to the grounds for appeal set out in the Code on Fitness to Practise (QH:C8)).

4 Appeals may be made by anyone who is enrolled as a student of the University on a taught programme, and may be made by individual students or, where appropriate, collectively by groups of students represented by a lead appellant (provided each student in the group confirms in writing their participation in the appeal).

5 'Enrolled' includes students on placements which form an integral part of their programme of study, and those who have been given permission to interrupt their studies.

6 An appeal will not be progressed by the University where the student decides to graduate (whether involving attendance at the degree ceremony or having the award conferred *in absentia*) before the matter has been resolved. Graduating constitutes acceptance of the award and all assessment decisions which led to the award, including any final classification.

7 Appeals by applicants to the University relating to the outcome of their application **must** appeal using the procedures set out in the University's Code on Recruitment, Selection and Admission (QH:C3). Appeals relating to applications for the recognition of prior learning must be addressed through the procedures set out in the Code on Credit Transfer and the Recognition of Prior Learning (QH:C4).

Authority

8 The Academic Quality and Standards Committee is the final arbiter of the application and interpretation of this code of practice.

9 Academic appeals are managed by the Head of Academic Quality and Learning and by the Academic Quality and Standards Committee on behalf of Academic Board.

Application to collaborative provision

10 Unless specified by the Academic Board, this Code applies to all provision referred to in paragraph 1 whether that provision is delivered by the University or another approved provider in accordance with a formal legal agreement.

PRINCIPLES

11 The processes described here are under-pinned by the principles of objectivity and respect and are intended to safeguard, as far as possible, the interests and well-being of students making an appeal and the staff who may be named or otherwise involved in an appeal.

12 Wherever possible all appeals will be resolved 'locally' at the earliest opportunity. However, a change in the decision of Board of Examiners can only be made by that Board, albeit acting under the direction of an Appeals Panel, or if the Chair of the Board of Examiners agrees that the decision should be reconsidered by the Board without the need for a full Appeals Panel. Otherwise, local resolution may take the form of 'verification' where the Chair of the Board of Examiners or the Programme Coordinator checks and confirms that the appropriate procedures have been followed in making the decision which is disputed by a student.

13 Appeals will be dealt with confidentially by all parties involved, except where it is necessary to disclose information to conduct a fair investigation and/or where disclosure is necessary to meet professional body requirements. Where it emerges that confidentiality has been breached unnecessarily disciplinary action and/or sanction will be considered by the University.

14 All parties involved in an appeal are required to act reasonably and fairly towards each other and to respect the University's procedures.

15 All appeals will be dealt with promptly, and any time-critical factors set out in the Academic Appeal form will be taken into account. Time limits **should** be met by all parties and **may** only be extended by the relevant decision-maker where it is necessary to do so to ensure a fair outcome.

16 No one investigating an appeal **should** have any conflict of interest in the matter. Where conflicts of interest are apparent or arise the Academic Quality and Standards Committee will appoint a replacement investigator

17 The University will not process appeals about matters which have already been, or are currently under consideration by a court or tribunal.

18 The process and outcome of the appeals procedure should not have a more general detrimental effect on the student's experience at the University, and students are entitled to continue to pursue their studies whilst the appeal is under investigation.

PROCEDURE

Grounds for appeal

19 An appeal can only be made on the following grounds, where there is evidence that there:

(a) are or were circumstances materially affecting the student's performance, for which supporting evidence exists, which were not known to the Examiners at the time the decision was taken and for which there was a legitimate reason for the circumstances not to have been brought to the attention of the examiners
(b) has been a significant procedural irregularity (including administrative error) in the assessment process
(c) are reasonable grounds to believe that the recommendation or decision was influenced by prejudice or bias or lack of proper assessment on the part of one or more of the examiners or other decision-makers.

20 There is no right of appeal:

(a) against academic judgement
(b) against marginal failure to attain a higher classification
(c) on the basis of retrospective submission of mitigating circumstances which could have reasonably been expected to be presented to the Board of Examiners before they made a decision
(d) where the matter has already been considered and rejected unless additional evidence in support of the appeal is provided and there is a valid reason (supported by evidence) why additional evidence was not submitted originally.

Submitting an appeal

Stage 1 Local resolution

21 Before making a formal appeal, students are asked to explore their concerns with either the relevant module tutor, the Programme Coordinator and/or the Head of Academic Quality and Learning. This might, for example, include asking for confirmation that the procedure for the assessment has been correctly followed or the marks accurately calculated – termed 'verification'.

Stage 2 Formal appeal

22 Where the matter raised by the student cannot be resolved at a local level the student can submit a formal appeal using the Academic Appeal Form. This **must** be submitted to the Head of Academic Quality and Learning within 20 working days of the date of notification of the decision against which the student wishes to appeal.

23 Only in very exceptional circumstances will the Head of Academic Quality and Learning agree to an extension on the time limit in which to make an appeal. Exceptional circumstances may arise where the student has, for example, an ongoing illness, debilitating condition, personal domestic circumstances that precludes them making an appeal in a timely manner.

24 The appeal **must** state the grounds on which the student wishes to make an appeal (as set out in para. 19) and include all relevant evidence relating to the appeal, including indicating why the matter could not be resolved satisfactorily at the local level.

25 Appeals on the grounds of illness must be accompanied by supporting documented medical evidence (such as a medical certificate), and an explanation of the reasons why the evidence was not originally presented at the time of assessment.

26 The Head of Academic Quality and Learning has the right to call for additional written evidence from the student and/or University staff and to include any such additional evidence they deem relevant to the appeal.

Scrutiny of the Appeal

27 The Head of Academic Quality and Learning **must** determine whether the formal appeal constitutes a valid appeal in that it:

(a) appears to demonstrate grounds for appeal (as defined in para. 19)
(b) would not be better resolved as a complaint (or should be progressed as a complaint as well)
(c) has been made by the student concerned or an authorised representative
(d) is not malicious, frivolous or vexatious
(e) is supported by relevant evidence.

Complaints and academic appeals

28 The University recognises that students may raise multiple issues which do not fall neatly into the category of complaint or academic appeal and that an appeal may be better progressed as a complaint (as defined in the Code on Complaints by Students (QH:G1)). Where this is the case the Head of Academic Quality and Learning will determine whether the appeal should be reclassified (at whatever stage of the process has been reached). The student will be consulted regarding the most appropriate procedure, and their agreement obtained before progressing the matter further.

Submission by the student

29 Appeals will only be considered where they are made directly by the student concerned, or the authorised representative of a student. Appeals made by third parties will not be considered. 'Authorised' means that the student has confirmed in writing that the representative may act on their behalf. Anonymous appeals will not be considered.

Malicious, frivolous or vexatious appeals

30 The University will not process appeals that are deemed to be malicious, frivolous or vexatious in that they are obsessive, harassing or repetitive, abusive in tone or language, insistent on pursuing unrealistic or unreasonable outcomes, designed to cause disruption or annoyance, or demanding disproportionate redress. The University reserves the right to terminate the appeal process at any time where an appeal is judged malicious, frivolous or vexatious.

31 A student who submits an appeal which is malicious, frivolous or vexatious may be subject to disciplinary action.

Academic Appeals Panels

32 Within 10 working days of receiving the appeal, the Head of Academic Quality and Learning **must** inform the student in writing either that:

(a) the appeal is valid and that an Appeals Panel will be established to hear and determine the matter or
(b) the appeal is not valid, stating the reasons for that decision, and confirming that the matter is closed.

Membership of the Appeals Panel

33 Where the appeal is judged valid, the Head of Academic Quality and Learning **must** establish an Appeals Panel. The membership of an Appeals Panel will comprise:

(a) two members of the Academic Quality and Standards Committee (with one of them acting as Chair provided they have received training in chairing Appeals Panels)
(b) an academic member of the University who is independent of the student.

34 All members of the Appeals Panel **must** declare any significant connection with the appeal or the student, and where a conflict of interest is identified that member of the Panel **must** be withdrawn from the Panel and be replaced by another member who does not have a conflict of interest.

Further evidence

35 Once the membership of the Appeals Panel has been established, the Appeals Panel **must** determine whether further evidence is required including whether potential witnesses need to be contacted, whether they are named in the appeal or not. The Head of Academic Quality and Learning is responsible for obtaining such further evidence and for notifying witnesses that they will be asked to attend an appeal hearing.

Notice of the appeal hearing

36 Once the date of the Appeals Panel hearing has been agreed, the Head of Academic Quality and Learning **must** inform the student and any witnesses in writing, stating the date, time and venue of the hearing and giving no fewer than 10 working days' notice of the hearing. The student **must** also be informed of their right to be accompanied by a person of their choosing, and must be informed of any witnesses who will appear at the hearing and be provided with copies of any further evidence which will be considered by the Appeals Panel.

Appeals Panel hearing

37 The hearing **must** be conducted in a manner which the Appeals Panel considers appropriate given the nature of the appeal and the evidence to be considered. The Chair **must** ensure that the student is given a fair and proper opportunity to make their case, to question any witnesses, and to comment on any evidence provided at or prior to the hearing.

38 The Head of Academic Quality and Learning will appoint an Appeals Panel Secretary to record the proceedings at the hearing. A copy of the final report **must** be provided to the student

within 5 working days of the hearing. Neither party will digitally record the proceedings of the hearing.

39 If the student declines to attend the hearing the Appeals Panel may agree to progress the matter in the student's absence. If the student is unable to attend for a reason which the Appeals Panel considers legitimate (such as illness) the hearing **must** be rearranged giving no fewer than 10 working days' notice of the new date.

40 If the student does not appear at the hearing, the Appeals Panel may proceed provided it is satisfied that the Appeals Panel Secretary has properly notified the student of the hearing.

41 Where the student is accompanied by a person of their choosing, that person may not address the Appeals Panel or witnesses other than in exceptional circumstances and at the invitation of the Chair.

42 Neither the University nor the student shall have recourse to legal representation at the Appeals Panel hearing.

43 Once the Appeals Panel is satisfied that it has received sufficient information on which to make a decision, and that both parties have had a fair opportunity to make their case, it shall require all parties and witnesses to withdraw while it makes a decision.

Outcome of the appeal

44 The Appeals Panel, is empowered to:

(a) uphold the appeal where it is satisfied that one or more of the grounds for appeal (set out in para. 19) has been established
(b) reject the appeal.

45 Where the appeal is upheld, the Appeals Panel **must** declare the decision against which the appeal was lodged invalid and make one or more of the following directions:

(a) that the Module or Programme Board of Examiners (as applicable) reconsider its decision in the light of the evidence presented in the appeal
(b) that the Academic Misconduct Panel or Fitness to Practise Panel reconsider its decision in the light of the evidence presented in the appeal
(c) that the Mitigating Circumstances Panel reconsider its decision in the light of the evidence of mitigating circumstances presented in the appeal
(d) that the internal examiners be required to assess afresh any examination script, piece of coursework or dissertation, or other relevant form of assessment, and for that script etc to be reconsidered by the Module Board
(e) that the student be permitted to submit a fresh piece of coursework, dissertation, project or equivalent or sit an examination as a fresh attempt
(f) such other order as the Appeals Panel deems appropriate, subject to paragraph 46.

46 The Appeals Panel is not empowered to award any mark, credit or qualification, or order the raising or lowering of a mark or a classification.

47 The Appeals Panel **should** inform the student orally of the outcome of the appeal including the appropriate resolution where the appeal is upheld, and the reasons for its decision. The Head of Academic Quality and Learning **must** confirm the decision in writing within 5 working days of the hearing. Confirmation **must** include notice of the student's right to seek a review of the appeal as defined in paragraph 49 onwards.

48 The Head of Academic Quality and Learning must inform the Chair of the Board of Examiners, Academic Misconduct Panel or other decision-makers, and the relevant Programme Coordinator in writing within 5 working days of the outcome of the appeal hearing and decision of the Appeals Panel.

Right of review

49 Where a student is not satisfied with the conduct of the Appeals Panel hearing the student can request a review of the appeal by writing to the Vice-Chancellor only where there is clear evidence that the Appeals Panel did not follow the University's procedures as set out in this Chapter in some material way.

50 Such a request **must** be made in writing within 10 working days of receiving written notification of the Appeals Panel decision.

51 There are no grounds for review on the basis of the following:

(a) new evidence not disclosed at the hearing
(b) disputing the academic judgement of the Appeals Panel
(c) disputing the competence of the Appeals Panel members.

52 The request for a review must specify in writing **precisely** what aspect(s) of the procedure was not followed.

53 If the Vice-Chancellor is satisfied that a review is justified they will either:

(a) make a judgement on the basis of the student's submission or
(b) convene, within 10 working days, a Review Panel with new members, none of whom has been involved with the appeal; where appropriate the Review Panel may include a member of the Board of Governors.

54 The Review Panel will review all of the evidence of the proceedings at the Appeals Panel and determine whether it considers the student's claim of a material procedural error is valid.

55 If the Vice-Chancellor, acting alone or on the advice of the Review Panel, determines that the student's claim is valid, they **must**:

(a) inform the student of the decision in writing within five working days of making the decision
(b) direct the Head of Academic Quality and Learning to establish a new Appeals Panel, constituted with a new membership and drawing on external members if necessary. This

Panel will then proceed as set out in paragraph 32 onwards. The decision of such a new Panel is final and not subject to further review under paragraph 49.

56 If the Vice-Chancellor, acting alone or on the advice of the Review Panel, determines that the student's claim is invalid they must inform the student of the decision within five working days of making the decision, and making clear that the decision is final. This communication to the student must also advise the student of their right to take the matter to the Gibraltar Public Services Ombudsman if they remain dissatisfied with the outcome of their complaint. The communication constitutes confirmation of the 'Completion of University Procedures' by the student and must include the text agreed jointly by the University and the Gibraltar Public Services Ombudsman.

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