

# B8: Regulations for hearings by panels

Academic year 2019/20

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## **Introduction and scope**

1. These *Regulations for hearings by panel* provide a framework for the conduct of panel hearings linked to the following:
  - a hearing to make recommendations on possible academic misconduct on the part of an undergraduate or taught postgraduate student or students (see [Regulations for academic integrity](#))
  - a disciplinary hearing or an appeal linked to such a matter (see [Student disciplinary regulations](#))
  - an academic appeal by a student (see [Regulations for academic appeals](#))
  - a hearing where there are concerns for a student's fitness to study or an appeal linked to such a matter (see [Procedure for support to study](#))
  - a fitness to practise hearing or an appeal linked to such a matter (see [Regulations for fitness to practise](#))
  - a complaint by a student about an aspect of learning opportunities or delivery of a service by the University (see [Procedure for complaints](#))

### **Reasonable adjustments**

2. Reasonable adjustments to the processes within the *Regulations* listed above, including the extending of deadlines for student responses, will be made upon the production by the student of relevant third party evidence which demonstrates the need for those adjustments.

### **Exceptional circumstances**

3. In exceptional circumstances it may be appropriate to amend the procedures set out in the *Regulations* listed above, for example, where strict application of the *Regulations* would result in substantial unfairness to the student or the student is in some way at risk because of health or disability. Such cases will be rare and each will be treated on their own merits.

## **Membership of panels**

4. The University maintains a pool of trained staff and students on whom it can call to serve as panel members. Potential members of the pool are nominated by senior members of the University and its Associated and Accredited Institutions, including the Chair of the Student Progression and Awards Board (SPAB); the Head of the Office of Student Complaints, Appeals and Regulation (OSCAR); the Executive Deans of Faculty (or their nominees); the Heads of Associated and Accredited Institutions, the President of the University of Surrey Students' Union, and equivalent senior student representatives for the Associated and Accredited Institutions. The experienced professional services staff who serve as panel members and those who serve as secretaries to panels are likewise nominated by senior members of the University and its Associated and Accredited Institutions.
5. Quality Enhancement and Standards (QES) maintains a register of staff and students trained to serve as panel members and those nominated for training as members of the pool. Individuals who have been nominated to join the pool of potential panel members may not serve on panels (whether as members or secretaries) until they have received training to undertake their responsibilities. Panels must include individuals from more than one School/department in the interests of supporting and enhancing the consistency with which matters put to panels are treated.

6. The constitution of the various panels that operate under the *Regulations* listed in Regulation 1 above are given in the individual sets of *Regulations*. Where possible, consideration will be given to ensuring the cultural mix or diversity of the panel.

***Training for panel members***

7. QES organises training for new members of the pool from which panel members are drawn. This training also provides an opportunity for continuing members of the pool to be briefed on any changes to the University's panel procedures and regulations since the previous session, to exchange information about good practice, to meet fellow members of the pool, and to offer advice to the University on improvements to current practice.

***Secretaries to panels***

8. Panel Secretaries are drawn from OSCAR and other areas of the Academic Registry and are utilised in a way that guards against conflicts of interest. Specific details are given in the relevant Regulations.
9. Unless otherwise provided for in the Regulations, the role of the Secretary of a panel is to:
  - advise the Chair
  - ensure that the panel is convened and conducts its business in accordance with the relevant Regulations
  - keep a written record of the panel's discussions and decisions (see below).
10. The Secretary to a panel also checks that:
  - the papers required to support the panel meeting have been distributed to all relevant participants in advance of the meeting, as required by the relevant Regulations
  - any individuals called to attend the panel to provide evidence or advice are notified of the date, time and place of the panel meeting
  - the written records of the panel hearing including the relevant correspondence, information the panel's deliberations, findings and outcomes are held securely in accordance with the relevant University guidance and/or regulations
  - the formal decisions of the panel are sent to those to whom they are directed as soon as possible after the panel meeting or as otherwise required by the Regulations
11. Unless otherwise provided for by the Regulations, the Secretary to a panel does not vote when decisions are made by the panel.

***Advice for panels***

12. Panels should seek advice from the relevant professional services areas as appropriate for particularly complex cases involving:
  - regulatory and quality issues – QES
  - disability issues and impact – Disability and Neurodiversity
  - legal implications - Secretariat

## Panel procedures

### ***Correspondence and communications***

13. The University's preferred method for contacting students on any matter is via their University email address. Where a student is asked to attend a panel hearing or meeting they will be given not less than five working days' notice. In addition to email contacts the University may also use the telephone to check that a student has received the necessary information. At all times it is the responsibility of each student to ensure the University has their correct contact details.
14. The information provided for a student and the Panel members who have been asked to attend a panel hearing will include:
  - the date, time, and place of the panel hearing
  - a copy of the relevant University Regulations, including these *Regulations*
  - any written evidence to be considered by the panel, including statements made by staff and other students
  - the names of the panel members
  - the names of any witnesses attending the hearing
  - details of how to contact the person or persons administering the panel hearing
15. The information provided five working days in advance of a panel hearing for a member of staff or a student asked to attend to provide information or oral evidence to the panel includes:
  - the date, time, and place of the panel hearing
  - a copy of the relevant University Regulations, including these *Regulations*
  - a brief summary or list of the written evidence to be considered by the panel, including statements made by staff and other students
  - the names of the panel members
  - details of how to contact the person or persons administering the panel hearing.

Once notified that they are requested to attend a hearing to advise the panel or provide evidence, individuals should not confer about the matter with other participants. To do so may prejudice the fairness of the hearing and its findings.

### ***Confidentiality and General Data Protection Regulations***

16. The University deals with hearings by panels in confidence, to the extent that this is compatible with making enquiries and holding meetings. The University collects and processes a variety of personal data in order to fulfil relevant student Regulations (see the [Regulations web page](#) for a list of all Student Regulations). This personal data may be provided by the student or collected from other departments within the University or taken from publicly available sources such as social media or, in the case of apprentices, provided by their employer. More detail on the types of data collected and how it is used to fulfil each Regulation can be found in the Student Regulations Privacy Notice, available at the above link. The University processes personal data for this purpose in its legitimate interests. Some Regulations will require the sharing of sensitive personal data (defined as "special category" data by data protection legislation). The University processes and shares special category data in the substantial public interest and only where it is necessary to enable the University to fulfil its duties of care to the student, other students, or to safeguard

third parties. More detail on the types of data collected and how it is used to meet this need can be found in the Student Regulations Privacy Notice, available at the above link

### ***Support for students***

17. A student attending a panel hearing may be supported by a friend, normally another student or an official of the University of Surrey Students' Union or, in the case of apprentices their employer or employer representative. Where the student intends to be accompanied in this way they are required to inform the person or office administering the panel hearing of the contact details of the friend at least three working days before the panel. The friend may speak to the student during the panel meeting and ask questions of the panel, or those attending to provide information, with the permission of the Chair. It is the normal expectation that the student will answer for themselves any questions from the panel.
18. The University's procedures, including panel hearings, are academic not legal procedures. Where a student insists on legal representation in a panel hearing the University will similarly require that it is legally represented. In these circumstances it may take longer to convene the Panel.
19. Where a student attends a panel hearing and is accompanied by a third party, having not previously notified the University that they wish to be accompanied, the Chair will ask the person to identify themselves. If the person is a solicitor or barrister the Chair will adjourn the hearing until the University can also be legally represented.

### ***Postponement and adjournment of panel hearings***

20. Where a student requests the postponement or adjournment of a panel hearing the decision whether to agree to the student's request is a matter for the Chair, advised by the Secretary.
21. When deciding whether to agree to a student's request to adjourn or postpone a panel hearing the Chair will take into consideration the following:
  - the grounds advanced by the student for requesting the adjournment or postponement
  - any unfairness to the student if the hearing is or is not postponed or adjourned
  - the consequences for the University of rearranging the hearing, possibly with another panel

### ***Panel hearing in the absence of the student***

22. Where a student notifies the office or person that is responsible for administering a panel hearing in advance of the panel hearing that they will not be able to attend the hearing, and that there are valid reasons, plus supporting evidence, to explain their non-attendance, the office or person responsible for administering the panel hearing will endeavour to reschedule the panel hearing. If there are no valid reasons for the student's non-attendance the panel hearing will proceed in the student's absence.
23. Where a student has not notified the office or person that is responsible for administering a panel hearing that they will not attend the panel hearing and does not attend the panel hearing, it may proceed in the student's absence.
24. Exceptionally, where a student can show good reasons with supporting evidence why they are unable to attend a scheduled panel hearing, they may request the University, through the body administering the relevant panel procedure, to be represented by a friend, so that the hearing can be held in a timely manner.

***Joint hearings***

25. In some circumstances two or more students may be invited to attend the same panel hearing. For example, where a complaint is made by group of students the Chair may view it as fair to invite more than one student to attend the panel hearing. Again, where a possible instance of academic misconduct involves more than one student (for example, in a matter of possible collusion) the University may wish more than one student to attend the panel hearing. In such a case, before agreeing to any request for a joint hearing the Chair, advised by the Secretary, seeks to establish whether holding such a joint hearing might be unfair to any of the individuals concerned.

***Burden of proof***

26. For panel hearings linked to academic misconduct it is for the University to show that it is more likely than not that the relevant assessed work was the product of, or contained the products of, academic misconduct.
27. For panel hearings linked to disciplinary matters it is for the University to show that it is more likely than not that the student committed the offence. The burden of proof switches to the student at the appeal stage.
28. For panel hearings linked to academic appeals it is for the student to show that their appeal or request meets the relevant criteria set by the University for an appeal to be allowed.
29. For panel hearings linked to support to study it is for the University to show that the student is not fit to study. The burden of proof switches to the student at the appeal stage.
30. For panel hearings linked to fitness to practice it is for the University to show that the student has breached the University's requirements for professional behaviour. The burden of proof switches to the student at the appeal stage.
31. For panel hearings linked to complaints it is for the student to show how the circumstances of which they have complained have affected them and their studies.

***Standard of proof***

32. In all panel hearings the standard of proof applied by panels is that of the balance of probability; that it is more likely than not something was or was not the case.

***Submission of evidence to panels and information and evidence from witnesses***

*Written evidence*

33. In the interests of fairness to all parties the University aims to have as much as possible of the business of a panel hearing set out in writing in advance of the hearing so that the student and others involved in the hearing are able to read and consider the information and points made. Written evidence, whether from the University, staff, students or medical practitioners should therefore be submitted to the person or persons administering the panel hearing not less than three working days before the hearing.
34. Where new written evidence is presented to the panel less than three working days before the hearing or at the hearing it may be accepted at the discretion of the Chair, who may require a short adjournment to review the evidence before accepting it. Where the Chair agrees to accept new written evidence they may grant a brief adjournment to allow all the parties to review it.

*Visual evidence*

35. Evidence can also be provided in visual form such as recordings from CCTV of University security cameras. If possible this should be provided in advance of the hearing at the same time as written evidence. Where this is not possible the evidence will be available for viewing at the panel hearing.

*Oral evidence*

36. At a panel hearing the student and the University may each call witnesses to attend to give information to the panel. Where the student or those representing the University intend to call one or more witnesses the names of the latter must be provided to all parties to the panel hearing not less than three working days before the hearing. It is at the discretion of the Chair whether to accept witnesses identified after this period.
37. For all panel hearings, before a witness speaks on the matter under consideration the Chair will remind all those present who has called the individual to attend and whether it is to give specialist advice about a subject within their sphere of expertise, to provide information about acts or omissions by the student or others, or both.

*Questioning written, visual and oral evidence*

38. Where witnesses have been called to attend a panel hearing they do so to provide evidence for the panel. Where the student has called a witness they and/or their friend may introduce the witness and ask them questions to bring out the evidence they wish to put before the panel. Panel members will subsequently question the witness to ensure that they have properly understood their evidence, to check its consistency with the facts of the matter as they are known, and to extend the scope of those facts.
39. Where the University has called a witness to attend a panel hearing the student and their friend may similarly question the witness, to ensure that their evidence is properly understood, to check its consistency with the facts as they are known, and to extend the scope of those facts.
40. The panel, the student, and the student's friend may comment on specific items of the written and visual evidence provided or invite a witness to clarify its relevance to the matter at hand and explain details. Where this is the case, panel members may question the student (or the friend) to ensure that they have properly understood their points (and vice-versa) and to check their consistency with the facts of the matter as they are known and to extend the scope of those facts.

*The order of business in a panel hearing*

41. In the interests of fairness and consistency, panel hearings normally follow this order of business:
- (i) introduction by the Chair of all individuals who are present at the hearing and a description of their role in the proceedings, together with a reminder (where relevant) of the requirement for confidentiality;
  - (ii) a description of the outline procedure for the hearing including the purpose of the hearing; how its proceedings will be conducted, including what opportunities there will be for the student and any accompanying friend to speak; how proceedings will be recorded; the possible outcomes; and the means by which the outcomes will be communicated to the student and all others involved;



- (iii) an oral presentation of the matter to be heard by a member of staff or the student (as appropriate) introducing the written evidence and stating whether any witnesses are to be called;
- (iv) an opportunity for the student to comment on the written and visual evidence to the panel;
- (v) an opportunity for the panel to clarify the student's comments on the written and visual evidence;
- (vi) an opportunity for witnesses to attend to provide specialist advice or accounts of the matter at hand for the panel's information and consideration;
- (vii) an opportunity for the panel and the student to clarify their understanding of the information provided by any witnesses;
- (viii) an opportunity for the student to remind the panel of relevant items from the written evidence and that provided by any witnesses and the student's own comments on the written and witness evidence;
- (ix) an opportunity for the Chair of the panel to summarise the evidence considered, identify the matters to be decided, and set out any precedents that are relevant;
- (x) a closing opportunity for the student to present a summary statement to the panel.

### **Panel decisions**

42. At the end of a panel hearing the panel discusses the matter in private. In the course of the discussions the Chair, assisted by the Secretary ensures the panel does not come to a finding before it has reviewed the evidence and arguments it has heard and what weight to place on each. All panel decisions are required to be either unanimous or majority verdicts. If necessary the Chair of a panel has a casting vote.

43. Where a hearing by one of the following:

- an Academic Misconduct Panel
- a Disciplinary Panel and Disciplinary Appeal Panel
- a Process Review Appeal Panel
- a Fitness to Practise Panel and Fitness to Practise Appeal Panel
- a Complaint Review Panel
- or raised via the Admission, Progression and Examination Sub-committee

leads the panel to consider that it is necessary for a matter to be dealt with under the University's [\*Procedure for support to study\*](#), the Chair of the panel or the Sub-committee, as an Authorised Person for this purpose, may refer the matter to the Chief Student Officer and request that the matter is considered by a Support to Study Panel.

### ***Record of the hearing and the panel's discussions***

44. The written record made by the Secretary to the panel covers the key points made throughout the hearing, the matters discussed by the panel in its private discussions at the end of the hearing, and the reasons stated by the panel for reaching its findings, decisions and/or recommendations. The student is informed in writing of the panel's findings, decisions and/or recommendations by letter agreed with the Panel Chair on behalf of the Panel members.

45. The written record made by the Secretary is the sole record of the hearing and the panel's discussions. The panel are responsible for the secure disposal of their documentation. The University will refer incidences of covert recordings for consideration under the [Student disciplinary regulations](#).
46. Following a first stage Panel the student is informed that if they have no grounds for appeal they may request a Completion of Procedures letter<sup>1</sup>. Where a panel hearing is the final stage in the procedure the letter states that it constitutes a completion of the University's procedures and that the student can request a review of the University's decision by the [Office of the Independent Adjudicator](#).

### **Records of panel hearings**

47. The written evidence provided for the panel; any covering letters sent to panel members and others as part of the process; the Secretary's record of the hearing; the note provided by the Secretary for the Chair from which to state the panel's findings, together with the letter sent to the student at the end of the hearing, constitute the official record of the hearing. At the end of the hearing process this body of material is checked by the Secretary and the body administering the relevant panel procedure and archived in line with the University's formal policy on the retention of records.

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<sup>1</sup> A Completion of Procedures letter is a formal written statement issued by the University to a student to confirm that the student has exhausted the University's internal procedures. A Completion of Procedures statement is required before a student can refer a matter to the Office of the Independent Adjudicator.