

Quality Code for Higher Education

Regulations Governing the use of Unfair Means by Candidates in pursuit of the Award of any Academic or Professional Qualification at Rotherham College

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Description:	These regulations detail the College's procedures governing the use of unfair means by candidates. It covers general principles and definitions, procedure for the investigation and determination of allegations of plagiarism, appeals and monitoring
Responsibilities:	Academic Head / Higher Education & Skills Department / Libraries
Applications for exemptions to:	Higher Education Learning & Teaching Committee
Report Exemptions to:	Higher Education Learning & Teaching Committee
Links to the UK Quality Code for HE:	

PART I

GENERAL PRINCIPLES AND DEFINITIONS

1 Purpose and scope

- (a) The purpose of these regulations is to provide a mechanism through which any form of unacceptable behaviour by a candidate used in pursuit of the award of a qualification may be investigated and, if proven, penalised. As such the regulations apply to any candidate and any qualification. They apply whether the qualification is professional, academic or any combination of the two, and whether offered solely by the College or in conjunction with any academic, professional or other institution in the United Kingdom or otherwise.
- (b) Actions involving or relating to the damaging, removal or hiding of materials belonging to the College's libraries shall be punishable according to Library policies and procedures.
- (c) Allegations of professional misconduct or professional unsuitability shall be investigated and determined in accordance with separate regulations governing professional misconduct or unsuitability. The Academic Head to whom an allegation is made is responsible for determining whether an allegation should be considered in accordance with these regulations or the regulations governing professional misconduct or unsuitability.

2 Authority

- (a) The Higher Education Learning & Teaching Committee is the final arbiter of the application and interpretation of these regulations as they apply to programmes and modules classified as 'taught'.
- (b) Any request to act other than in strict accordance with the requirements of these regulations must be made in writing to the chair of the relevant committee as specified in this regulation.
- (c) Unless otherwise stated in these regulations, any reference to the 'Chair' or 'Secretary' shall be a reference to the Chair or Secretary of the Higher Education Learning & Teaching Committee in respect of allegations against undergraduate or taught postgraduate students.

3 Definition of unfair means

- (a) 'Unfair means' is defined as any conduct by a candidate which may gain an illegitimate advantage or benefit for him/herself or another or which may create a disadvantage or loss for another.
- (b) This definition applies whether the candidate acted alone or in conjunction with another or others, whether members of the College or not, and includes conduct which is attempted, and the successful or attempted inducing or coercing of another or others, whether they are members of the College or not.
- (c) An action or actions shall be deemed to fall within this definition whether occurring during, or in relation to, a formal examination, a piece of coursework or any other form of assessment and therefore at any time and in any context in pursuit of an academic or professional qualification.

(d) For the purpose of these regulations 'assessment' in the paragraph above is termed 'summative assessment' and means assessment contributing to the final mark for the module or equivalent unit. These regulations do not apply to 'formative' assessment.

(e) The following provides examples of the kind of conduct which may constitute 'unfair means' but this is neither an exhaustive definition nor an indicator of prima facie grounds for Unfair Means:

- 'cheating' in an examination by possessing materials prohibited in the examination room
- 'cheating' in an examination by using materials prohibited in the examination room
- falsifying the results of laboratory, field-work or other forms of data collection and analysis
- impersonating another during an examination or other assessment or related event
- conspiring with another or others to have work completed by another candidate, including offering work, whether for sale or not, for use by another without acknowledgement
- collusion (where the work submitted is the result of the work of more than just the student making the submission but which the student making the submission claims to be his/her own work without acknowledging the contribution of other students)
- using false statements, or presenting false evidence, in support of a request to withdraw from an examination, obtain an assessment extension, or explain any form of absence or default
- falsifying a transcript or other official document
- submitting work for assessment which has been performed or created by other persons or commissioning third parties to perform or create the work whether for payment or not
- making your work available to others, giving opportunity for them to plagiarise (group work **must** acknowledge the contribution of others or collusion may be deemed to have occurred)
- submitting work for assessment which is substantially the same work as submitted for a previous assessment (sometimes referred to as 'self-plagiarism')
- plagiarism as further defined in Regulation 4 below.

4 Definition of Plagiarism

(a) 'Plagiarism' is a specific form of 'unfair means' and is subject to the terms of these regulations which supersede the College Code of Practice (CoP) on Plagiarism.

(b) *What is plagiarism?* It is work which purports to be a candidate's own but which is taken without acknowledgement from the published or unpublished work of others. Such unattributed taking is plagiarism whether from articles, books, computer programs, data, essays, papers, reports, or any other material originated by another person, whether obtained from written, printed or electronic sources, including via the internet, or any other computer-based or networked system. It is plagiarism whether the medium is literary (essays and reports), graphical (designs, diagrams, graphics), electronic (computer programs) or mathematical (proofs). Intention to commit the offence is not relevant to the finding of guilt, but may be relevant to the penalty imposed.

- (c) *Levels of plagiarism.* There are different levels of seriousness in the nature of plagiarism, and the significance of an act of plagiarism is greater the further a student is advanced in his or her career at university. At the Certificate stage students may be said to be still learning the ethos of university work, and many are still developing that punctilious care which should distinguish academic work. By the Diploma stage, however, students should be well aware of the important distinction between highly derivative work and plagiarism. It follows that an offence of plagiarism is most reprehensible at the Honours or Masters stage.
- (d) Levels of seriousness can most easily be illustrated in the case of assignments of a literary nature, but a similar analysis of a range from complete to partial plagiarism can also be applied to graphical, electronic and mathematical work. Typical examples from essays are as follows:
- unacknowledged verbatim copying throughout
 - unacknowledged verbatim copying with occasional alteration of word order, omission of words, phrases or sentences, and insertion of linking words or phrases, over a paragraph or section of a paragraph, or a number of paragraphs - this method is sometimes referred to as 'paraphrasing', but the definition of 'paraphrase' is restatement in other words
 - paraphrasing which includes unacknowledged verbatim phrases from the other text or texts
- (e) *The primary test of plagiarism.* This is the presence or absence of citations of the sources and authorities of the material and the use of quotation marks or other appropriate methods to identify a material's origin.

5 **Duty to act fairly**

All allegations of conduct covered by these regulations shall be investigated in accordance with the principles of 'natural justice' (the duty to act fairly) and in accordance with the specific procedures set out in Parts II and III of these regulations.

6 **Delegation**

- (a) Any role or function given to an Academic Head under these regulations may be delegated by the Academic Head to any person he or she deems appropriate, including a member of staff of from another Department.
- (b) Any reference to 'the Academic Head' shall include any person designated by the Academic Head to act on his or her behalf. This person **must** be appropriately notified to the students via the relevant Handbook.

7 **Calendar days**

Any reference to 'days' in these regulations means calendar days unless otherwise specified.

PART II

PROCEDURE FOR THE INVESTIGATION AND DETERMINATION OF ALLEGATIONS OF PLAGIARISM – THE CAUTION

8 Identification of plagiarism

- (a) Where an examiner, when marking a piece of work (submitted for summative assessment), identifies parts of the work as plagiarised s/he should indicate in a manner appropriate to the medium in which the work was completed (whether computer program, practical piece or essay) which parts of the work are plagiarised, but should not indicate the source(s) on the original piece of work. Any software used to assist the marker's determination of whether plagiarism has taken place **must** be set to retain the anonymity of the candidate.
- (b) The examiner should decide whether the plagiarism is sufficient to warrant further investigation. If s/he decides it is minimal (i.e. **not** appropriate to investigate) s/he should complete the examining process, and once the anonymity has been removed in accordance with the faculty's agreed procedure, advise the candidate that a minimal amount was plagiarised, and refer the candidate to appropriate sources of guidance.
- (c) Where the examiner suspects plagiarism but believes s/he would have difficulty proving it, once the anonymity has been removed in accordance with the College's agreed procedure, the examiner should advise the candidate that s/he has 'concerns' about possible plagiarism, refer the candidate to appropriate sources of guidance, but take no other action. In such cases a penalty - including any formal written warning - of any form **must not** be issued.
- (d) If the examiner decides that the plagiarism is **not** minimal s/he **must**, within 4 weeks of the assessment event having taken place forward the work to the relevant Academic Head in which the candidate is registered, or was registered at the relevant time, with a covering statement in a manner prescribed by the Academic Head, and supported by any relevant supporting evidence.
- (e) The Academic Head is empowered to remove the anonymity of the piece of work at this point.

9 The Caution/Adjudication Panel decision

- (a) On receipt of an allegation of plagiarism, the Academic Head **must** determine whether the candidate is eligible for the issue of a Caution as defined in the Regulation 11 below.
- (b) Where the candidate is eligible the caution **must** be issued as set out in Regulation 12 below.
- (c) Where the candidate is not eligible for a caution then the procedure set out in Part III of these regulations **must** be followed so that a penalty for plagiarism may be imposed only following the decision of an Adjudication Panel.
- (d) Receipt of an allegation shall empower the Academic Head to order that other work by the candidate be investigated whether in the same module or different modules. Where such investigation would constitute a retrospective investigation as defined in the regulation below, the requirements of that regulation must be followed.

10 Definition of the Caution

- (a) The Caution is a penalty which is issued as a means to
- formally signal to the candidate that specified work is plagiarised
 - provide an opportunity for the student to learn from the case to minimise the likelihood that s/he will plagiarise future work

11 Eligibility for a caution

- (a) Each candidate is eligible for a caution for an initial period of his/her first programme of study leading to an award as defined below:
- The candidate is undertaking the Pre-Certificate or Certificate stage of an Undergraduate programme of study – this includes candidates who are repeating that stage or have transferred to it from another programme
 - The candidate is undertaking the first semester of the Diploma, post Diploma or Honours stage of an Honours degree
 - The candidate is undertaking the first semester of the Intermediate stage of a Foundation Degree having been admitted as a direct entrant to that stage
 - The candidate is undertaking the first semester of the Postgraduate or Graduate Certificate in Education
 - The candidate is undertaking the Certificate stage of a taught graduate or postgraduate Diploma or degree
 - The candidate is undertaking the Diploma or Masters stage of a taught graduate or postgraduate degree having been admitted directly to that stage
- (b) References to 'first semester' in paragraph shall be interpreted as applying to full-time programmes. For part-time programmes, a period equivalent to the first semester full-time shall be applied.
- (c) No candidate is eligible for a second caution unless the second case of plagiarism was committed *before* the candidate received the first caution.

12 Issuing a caution

- (a) Where a candidate is eligible for a caution the Academic Head **must** issue the caution in accordance with the wording approved by the Higher Education & Skills Department - Annexe 6I(1) of these regulations.
- (b) A condition of the caution is that the candidate is required to resubmit the work – within a deadline prescribed by the Academic Head – correctly acknowledging the sources used, without otherwise amending the work. The deadline should be appropriate to the mode and location of study but in all cases must be no less than five working days.
- (c) When re-submitted the examiner should then mark the work, awarding a **maximum of 40** for the *piece of work*. If sources have still not been satisfactorily acknowledged no **more than 30** may be awarded. If the work is not re-submitted, or not re-submitted within the deadline prescribed by the Academic Head, **0 must be awarded**. There is **no discretion** to award a mark higher than the limits specified in this paragraph.
- (d) The mark awarded under paragraph 11(c) above will be taken into account by the Module Board when calculating the overall module mark in accordance with the published requirements for the module. Although the mark for the piece of work is capped, the mark for the module *as a whole* **must not** be capped unless the piece of work in question was itself part of the *reassessment* for the module.

(e) If the module is failed, normal reassessment rules (as specified in the relevant University awarding body Programmes Regulations) shall apply – the ‘re-submission’ of the work does **not** constitute a second attempt.

(f) The Academic Head **must** ensure that the caution is recorded on the candidate’s file.

13 Refusal to accept the caution

(a) A candidate may refuse to accept the caution and elect a hearing before an Adjudication Panel – e.g. because s/he disputes the finding of plagiarism. The hearing of the Panel **must** be established in accordance with Part III of these regulations.

(b) As specified in Part III of these regulations, an Adjudication Panel is empowered to impose a penalty relating to the *whole module* and not just the piece of work if it finds that plagiarism is proven.

PART III
PROCEDURE FOR THE INVESTIGATION AND DETERMINATION OF ALLEGATIONS WHERE THE CAUTION PROCEDURE IS INAPPLICABLE

14 Investigation of allegations

- (a) Subject to Part II of these regulations, all allegations **must** be made in writing to the Academic Head in which the candidate is registered, or was registered at the relevant time, within 4 weeks of the assessment event having taken place, and shall be supported by as much evidence as can be provided by those with first-hand knowledge of the conduct alleged.
- (b) On receipt of the allegation and any supporting evidence, the Academic Head may make, or cause to be made, such further enquiries as he or she deems appropriate, and thereafter shall determine whether there is *prima facie* evidence of a breach of the regulations.

15 No prima facie case

If the Academic Head determines that there is no *prima facie* evidence, the matter shall be deemed closed and this shall be reported in writing to the candidate and the person or persons making the allegation within three working days.

16 Prima facie case

- (a) If the Academic Head determines that there is such *prima facie* evidence he or she shall inform the candidate in writing, no later than six weeks from receipt of the allegation:
- summarising the allegation and any supporting evidence
 - explaining the right of the candidate to respond in writing within 21 days of the date of the notification
 - giving the candidate the opportunity to admit or deny the allegations in any such response, and
 - where the allegation is admitted, giving the candidate the opportunity to make any statement by way of explanation or mitigation
- (b) On receipt of a response from the candidate, or following the expiry of 21 days with no response received, the Academic Head shall act as follows:
- If the candidate admits the allegation, the Academic Head shall cause an Adjudicating Panel to be established to determine the penalty or penalties to be imposed. Any statement by way of explanation or mitigation, submitted with such an admission, shall be considered by the Panel in determining the penalty as defined in Regulation 23 below
 - If the candidate denies the allegation, or no response is received within 21 days, the Academic Head shall cause an Adjudicating Panel to be established to determine whether the allegation is proven, and, if proven, the penalty or penalties to be imposed
 - If the candidate indicates, or the Academic Head otherwise has reason to believe, that his/her behaviour may be the result of mental health difficulties, the Academic Head should consult Additional Learning Support to ensure compliance with the Disability Discrimination Act.

17 Satisfactory explanation

If, on receipt of a response from the candidate wherein the candidate does not admit the allegation, the Academic Head determines that the allegation has been satisfactorily explained, the Academic Head shall be empowered to rule that the allegation not be proceeded with, and the matter be considered closed. A decision by the Academic Head under this regulation shall be reported in writing to the candidate and the person or persons making the allegation within three working days.

18 Adjudication Panel membership

- (a) The Panel shall be constituted as seems appropriate to the Academic Head given the nature of the allegation, but it shall consist of
- A chair appointed from the Higher Education Learning & Teaching Committee
 - at least one further member drawn from the academic staff of the College
 - A member of Higher Education & Skills Department who has an in depth knowledge of the regulation
- (b) The Academic Head shall have regard to the desirability of one member being from outside the Department in which the candidate is registered.
- (c) No person who has been involved in the making or investigating of the allegation shall be a member of the Panel.
- (d) In cases of collusion, or where candidates are jointly accused, separate Panels must be constituted to consider the allegations against each candidate.
- (e) The Higher Education & Skills representative shall be responsible for providing advice to the panel, keeping the minutes of the proceedings of the Panel but shall not otherwise participate in the making of decisions by the Panel.

19 Informing the candidate of the hearing

- (f) The candidate shall be informed in writing of the time, date and venue of the hearing of the Panel, with at least seven days' notice, such notice to include the details of any witness or other party to be called by the Panel, and a copy of any relevant statement made by the said witness or other party.
- (g) The hearing shall be established within six weeks of the response from the candidate being received, or the expiry of 21 days where no response is received.

20 Conducting the Panel hearing

- (h) The candidate shall have the right to be heard in person by the Panel, and to be accompanied by a person of his/her choosing, provided that such person may not speak for the appellant, unless invited to do so by the chair of the Panel.
- (i) At the request of the candidate or the panel, the candidate's Curriculum Leader, shall be entitled to be present throughout the giving of evidence, and to provide advice to the candidate, and relevant information to the Panel as either the candidate or the Panel considers helpful.

- (j) The candidate shall be entitled to waive the right to attend, by notifying the Academic Head in writing, in which case the Panel shall proceed in the candidate's absence. If no response is received from the candidate, the Panel shall be empowered to proceed in the candidate's absence. If the candidate responds indicating a legitimate reason for being unable to attend on the specified date, the hearing shall be rearranged.

If no legitimate reason (as determined by the Academic Head) is given for not attending, the hearing shall take place on the date notified.

- (k) At the request of the Panel, the findings of the investigation shall be presented orally to the Panel by the Academic Head or other person responsible for undertaking the investigation of the allegation. In the event of the said person being unavailable to present the findings, the Academic Head shall designate another member of staff, who shall be someone who is not otherwise involved in the proceedings.
- (l) The Panel shall be empowered to call any witness or other person whom it deems qualified to provide relevant evidence. Other than in exceptional circumstances as defined by the Panel, the candidate shall be entitled to be present while such evidence is presented, and thereafter to ask the witness fair and relevant questions. Where the Panel deems it inappropriate to allow the candidate to be present, the candidate shall afterwards be fully appraised of the evidence given by the witness, and may be permitted to have questions put to the witness by the Panel in his or her absence.
- (m) Once the Panel is satisfied that sufficient evidence has been presented and the candidate been given fair and reasonable opportunity to respond, the Panel shall consider its decision in private both as to whether the allegation has been proven on a balance of probabilities and, if proven, the penalty or penalties to be imposed. In so deciding the Panel **must** act in accordance with Regulation 23.
- (n) All proceedings of the Panel **must** be minuted by the Higher Education & Skills Department representative and subsequently agreed by the Panel as a correct record.
- (o) The secretary **must** inform the candidate in writing of the decision, any penalties imposed and in summary the reasons for the decision. This information **should** be provided within three working days.
- (p) A copy of the Panel's decision **must** be copied to:
- The chair of any relevant Examinations Board
 - The chair of the Higher Education Learning & Teaching Committee

21 Other Evidence

In determining which evidence is relevant to the investigation and determination of the allegation, regard shall be had to the following:

- Any indication that the candidate succeeded in destroying or attempted to destroy evidence or otherwise made or attempted to make evidence unavailable to those investigating the matter, shall be considered along with the allegation, and the decision-maker shall draw such inferences as appear proper.
- Evidence that a previous allegation has been made or proved shall be considered only to the extent that it bears such striking similarity to the allegation now under investigation that its obvious relevance outweighs any prejudicial effect.

22 Standard of proof

- (a) The Adjudicating Panel shall be required to determine whether the allegation has been proven on a balance of probabilities. The Adjudicating Panel shall be the arbiter of whether this standard of proof has been satisfied.
- (b) The decision of the Panel **should** be unanimous but a majority decision is acceptable if unanimity cannot be achieved, with the chair having the determining vote where necessary.
- (c) If the Adjudicating Panel is satisfied that the standard of proof has been satisfied, it **must** determine a penalty in accordance with Regulation 23 below:
- i. If the allegation is not proven on a balance of probabilities, the matter shall be deemed closed (subject to its subsequent admissibility as stated in Regulation 21 above)

23 Penalties: general principles

- (a) In determining a penalty for a breach of these regulations, the Panel is empowered to take into account the following factors:
- The nature and severity of the conduct found to constitute unfair means
 - In the case of plagiarism, the extent of the plagiarism relative to the total assessment requirement for the module
 - The number of breaches found proven by the Panel in the present hearing, subject to paragraph 23(d) below
 - The stage of the programme which the candidate had reached at the time the breach was committed
 - Subject to paragraph 23(c) below, any statement by way of explanation or mitigation offered by the candidate, and the extent to which this statement is corroborated by documentary or other evidence
- (b) Where the candidate has previously committed a breach of these regulations within the College (within the previous 10 years), which is not simultaneous as defined in paragraph 23(d) below and disregarding any caution issued in accordance with Part II of these regulations) the Panel must begin with the *presumption* that the penalty is termination of programme. This presumption can be rebutted and a lesser penalty imposed taking into account the factors set out in paragraph 23(a) above.
- (c) Where an allegation of plagiarism has been proven, any claim of mitigating circumstances must be disregarded unless in the view of the Panel the circumstances are very exceptional. Where the Panel considers that they are very exceptional, the hearing must be suspended pending a ruling from the Chair of Higher Education Learning & Teaching Committee as to whether the circumstances are sufficiently exceptional as to justify taking them into account.
- (d) Where the candidate is proven to have committed more than one breach of these regulations, but notification of the first breach had not been received by the candidate at the time of committing the second breach, both shall be considered to be 'simultaneous' breaches. Each breach shall be treated as one breach only for the purpose of determining penalty.
- (e) In determining penalties, the decision of the Adjudicating Panel is at all times subject to the relevant Regulations. Therefore a decision of a Panel *not* to deny reassessment, referral,

compensation or condonement, means that the candidate only gets such opportunity if s/he is eligible under the relevant Regulations.

- (f) In all cases, other than where a penalty of termination of programme is imposed, the candidate **must** be issued with a College Warning following receipt of the letter of decision under Regulation 20(p) above.
- (g) In any case where a penalty is imposed in respect of an assessment which constitutes a second attempt (reassessment) the penalty shall supersede and override any mark awarded for the first attempt.
- (h) In any case where the Panel considers there are compelling reasons for imposing a penalty other than one permitted by regulations, the Panel **must** defer the proceedings of the Panel and make a **special case** in writing to the chair of the Higher Education Learning & Teaching Committee (as applicable) setting out the proposed penalty and the reasons for wishing to impose a penalty outside of the regulations. The Panel **must** inform the candidate of the action being taken and the reasons for it.

24 Penalties: candidates on taught programmes or modules

- (i) Subject to Regulation 23 a breach or breaches of these regulations **must** result in a penalty within the following range:

Minimum penalty	<p>Plagiarism</p> <p>The mark for the module tainted by plagiarism as a whole shall be reduced to the extent considered appropriate in the academic judgement of the Panel (which may require the advice of subject specialist markers in the exercise of that academic judgement)</p> <p>Where the plagiarism is extensive within that piece of work and exact, a mark of zero for the module must be awarded</p> <p>Other forms of unfair means</p> <p>The award of zero for any module which, in the judgement of the Panel is tainted by the conduct in question</p>
Range between minimum and maximum	<p>Denial of reassessment of the module tainted</p> <p>Denial of compensation/condonement</p> <p>Denial of referral</p> <p>Termination of the programme of study, with the candidate entitled to any qualification or other award indicated by the credits gained at the time of the decision of the Adjudicating Panel, with zero awarded for the module tainted by plagiarism</p>
Maximum penalty	<p>Termination of the programme of study, without prior issue of any form of warning, without award/qualification/credit</p>

- (j) Where a breach (not involving plagiarism) does not, in the judgement of the Panel, relate directly to one or more modules, the Panel shall impose a penalty which it judges proportionate to the breach, taking into account Regulation 23.

25 Penalties: Decisions of Examination Boards

- (a) Where work for a summative assessment for the module is currently under investigation for an alleged breach of these regulations at the time of the meeting of the relevant Examinations Board, the Board **must** defer decision in respect of the candidate and record a result of INV and no mark.
- (b) Where an Examinations Board has received a copy of the letter of decision (under Regulation 20(p) above) it must apply the penalty as imposed by the Adjudication Panel and **must not** impose any other penalty based on the use of unfair means arising in this or any other instance.
- (c) Paragraph 25(b) does not prohibit the Examination Board from exercising its powers in respect of matters unrelated to unfair means, and specifically, it **may** deny reassessment where the Adjudication Panel has not denied reassessment, provided that the Board's denial relates solely to non-compliance with the published attendance and submission requirements of the module.
- (d) An exam board decision of Fail/Repeat year removes the record of a student's marks for that year but **must not** remove the record of any offence of Unfair Means committed during that year.

26 Termination of programme

- (a) Where a candidate's programme of study is terminated as a result of a breach proven and penalised in accordance with the terms of these regulations, the fact of that termination and the reason for it shall be recorded on the candidate's record and official transcript.
- (b) Where such a candidate applies to undertake further study with the College, in deciding whether to admit the candidate, the Course Tutor **must** consult with his/her Academic Head, and have regard to the nature and seriousness of the conduct which resulted in the termination of programme. The final decision **must** be reported to the Higher Education & Skills Department.

PART IV: APPEALS

27 Right of appeal

- (a) A candidate may appeal against the decision and/or penalty imposed by the Adjudicating Panel.
- (b) The candidate shall notify the Chair of Higher Education Learning & Teaching Committee of his or her intention to appeal within 14 (calendar) days of the date on which notice of the Adjudicating Panel's decision was formally served on the candidate in writing by the College. Appeals lodged outside this time limit will not be considered other than in exceptional circumstances. The Chair of the Higher Education Learning & Teaching Committee shall be the final arbiter of whether exceptional circumstances exist. 'Served' shall mean posted using recorded delivery.

28 Grounds for appeal

- (a) The candidate shall set out in writing, using the approved appeal form, his or her grounds for appeal against the Adjudicating Panel's decision. Such grounds might include:
- circumstances of which the Adjudicating Panel or the Academic Head, as appropriate were not aware when they made their decision, and had either of them been so aware, it is reasonably likely that they would have reached a different decision
 - procedural irregularities in the conduct of the hearing of the Adjudicating Panel or in the penalty imposed
 - evidence of bias or prejudice
- (b) The candidate shall submit with the grounds for appeal any evidence on which he or she wishes to rely in support of those grounds.

29 Investigation of the Appeal

- (a) On receipt of the statement of appeal and supporting evidence, a designated Higher Education & Skills Department representative shall record the date of receipt and forward the statement and evidence to the Academic Head in which the candidate was registered at the time of the recommendation or decision.
- (b) The Academic Head shall review the statement of appeal and supporting evidence, and invite the appellant to an interview to further explain the matters raised in the appeal as the appellant and Academic Head deem appropriate. The candidate shall be entitled to be accompanied by a person of his/her choosing at this interview, provided that such person shall not speak for the appellant.
- (c) Once the Higher Education & Skills Department representative is satisfied that s/he has received sufficient information from the appellant to identify the issues raised in the appeal, s/he shall serve copies of the statement of appeal and supporting evidence to the Chair of the Adjudicating Panel (or Academic Head, as appropriate). The Higher Education & Skills Department representative shall also serve notice of the specific questions or issues on which s/he require a response, and any documents held by the Department(s) which s/he deems material to the appeal.
- (d) The Chair of the Adjudicating Panel (or Academic Head, as appropriate) shall make a formal written response to the issues raised by the Higher Education & Skills Department representative, and appellant, and provide copies of the documents requested by the Higher

Education & Skills Department representative within 14 (calendar) days of receiving the statement of appeal from the Higher Education & Skills Department representative.

- (e) Where the Chair of the Adjudicating Panel (or Academic Head, as appropriate) is unable to provide the response and/or documents referred to in paragraph 29(d) within 14 (calendar) days, s/he shall before the expiry of those 14 days, advise the Higher Education & Skills Department in writing of this, explaining the reasons for the delay, and the date by which it is reasonably likely that the response and/or documents can be provided.
- (f) Where an explanation is received under paragraph 29(e) above, the Higher Education & Skills Department representative shall inform the appellant in writing of the delay, the reasons for the delay, and the likely date by which the response is expected.
- (g) Where no response or explanation for a delay is received within the 14 day deadline, the Higher Education & Skills Department representative shall inform the appellant and the Chair of the Higher Education Learning & Teaching Committee of this fact.
- (h) The Higher Education & Skills Department representative shall invite the Chair of the Adjudicating Panel (or Academic Head, as appropriate) to discuss the issues raised in person should either deem that appropriate.
- (i) Where the response and documents (where applicable) have been received by the Higher Education & Skills Department representative, and s/he is satisfied that the information provided is adequate to proceed with the matter s/he shall copy the response and documents to the appellant, and invite the appellant to submit a further written response within 14 (calendar) days of being served with the Department's response.

30 Determination of Prima Facie case

- (a) Once the Higher Education & Skills Department representative is satisfied that all relevant evidence has been received from the appellant and the Department(s), and that the requirements of reg. 29(g) above have been satisfied, s/he shall meet with the Chair Higher Education Learning & Teaching committee, within 14 (calendar) days of the response being received from the appellant, or the expiry of the deadline in Regulation 29(i) above, to determine whether the statement of appeal, supporting evidence, and responses from the Departments, demonstrate *prima facie* grounds for appeal.
- (b) The Chair shall decide that there are *prima facie* grounds only where he or she considers that the candidate's grounds for appeal – as to either proof or penalty – disclose a reasonably arguable case.
- (c) Only in exceptional circumstances shall the Chair rule that there are *prima facie* grounds for appeal in any case where evidence produced in support of the appeal was available to the candidate, or could reasonably have been available, at the time of the original hearing. The Chair of Higher Education Learning & Teaching committee shall be the final arbiter of whether exceptional circumstances exist.
- (d) Where the Chair determines that *prima facie* grounds have not been demonstrated he/she will reject the appeal, and the Chair will inform the appellant, and relevant departments in writing, within three working days, setting out the reasons for the decision.

- (e) Where the Chair determines that *prima facie* grounds have been demonstrated an Appeal Committee shall be appointed by the Chair to hear the appeal, and this shall be reported to the appellant within seven days.

31 Membership of the Appeal Committee

- (a) The Appeal Committee shall normally consist of the following members:
- The Chair of the Appeal Committee, who shall be the Chair of the Higher Education Learning & Teaching committee unless he or she is absent, in which case an appropriate Higher Education & Skills member or a SLT representative shall be invited to act as Chair
 - Two members of the College Appeals Panel, who shall not be members of the department or departments (in the case of a two/three subject programme) responsible for the candidate's programme of study, or the department responsible for delivering the module to which the appeal relates if different
 - In determining the membership of the Committee, regard shall be given to the desirability of achieving a balance in terms of gender and within the context of the College's equal opportunities policy

32 Procedure for Convening an Appeal Hearing

- (a) The appellant shall be informed in writing of the time, date and venue of the hearing, with at least seven days' notice. Dispatch of communications to the appellant by recorded delivery to the address notified by the appellant on the approved appeal form, shall be taken as evidence that the necessary information has been communicated to the appellant.
- (b) Failure by the candidate to attend the hearing without good cause shall be taken as evidence of the candidate's intention to withdraw the appeal. Good cause shall be determined by the Chair of the Appeal Committee. An appeal may be heard *in absentia* with the agreement of the candidate.
- (c) For appellants whose country of domicile is outside the United Kingdom, with the agreement of the appellant, arrangements shall be made for the conduct of the hearing by alternative means, such as video conferencing or other appropriate forms of technology.
- (d) The hearing will be held as soon as reasonably practicable, but in any case normally within one month of the decision of the Chair that *prima facie* grounds have been demonstrated.
- (e) The Higher Education & Skills Department shall ensure all both parties have been provided with copies of any written statements or other evidence which is likely to be relied upon or otherwise considered at the hearing.

33 Procedures at the Appeal Hearing

- (a) The Appeal Committee shall determine how the appeal hearing is conducted subject to the following principles:
- (b) The responsibilities of the Higher Education & Skills Department shall be to:
- introduce the issues raised in the appeal
 - to provide information and advice to the Committee independent of the appellant and the department(s)
 - to assist the appellant to ensure that s/he has a fair opportunity to present his or her case
 - to ensure that the proceedings are conducted in a fair manner

- (c) The candidate shall have the right to be heard in person by the Appeal Committee, and to be accompanied by a person of his or her choosing. Such person may not speak for the appellant, unless invited to do so by the Chair of the Appeal Committee.
- (d) At the request of the appellant, or the Appeals Committee, the appellant's Course Tutor shall be entitled to be present throughout the giving of evidence, and to provide advice to the appellant, and relevant information to the Appeal Committee as either the appellant or Appeal Committee considers helpful.
- (e) The Appeal Committee shall be empowered to call any witness or other person whom it deems qualified to provide relevant evidence, and which shall include representatives of the Department(s) against whose decision the appeal was lodged.
- (f) Other than in exceptional circumstances as defined by the Appeal Committee, the appellant shall be entitled to be present while evidence is presented by any witness or other person called by the Appeal Committee, and to question any such witness. Where the Appeal Committee deems it inappropriate to allow the candidate to be present, the appellant shall afterwards be fully apprised of the evidence given by the witness, and may be permitted to have questions put to the witness by the Appeal Committee in his or her absence.
- (g) Any matters of a personal or sensitive nature raised or disclosed during the hearing shall be deemed confidential as between those present at that time, unless otherwise agreed with the relevant parties.
- (h) All proceedings of the Appeal Committee shall be minuted.
- (i) The Secretary of the Appeal Committee shall be responsible for providing advice to the Appeal Committee on College regulations and procedures. Any questions, for example to clarify points made for the record, will be put via the Chair, otherwise the Secretary will not take part in proceedings.
- (j) Once the Appeal Committee is satisfied that sufficient evidence has been presented and the appellant has been given a fair and reasonable opportunity to make his or her case, the Appeal Committee shall consider its decision in private.

34 Powers of the Appeal Committee

- (a) The duty of the Appeal Committee shall be to consider all the evidence adduced before it and to determine whether the appeal should be allowed or rejected.
- (b) The Appeal Committee may confirm, vary or set aside the decision of the Adjudicating Panel, except that such a decision shall not involve the imposition of a penalty more severe than that originally imposed by the Adjudicating Panel.
- (c) In all cases the appellant and representatives of the department(s) shall be informed in writing of the decision and the reasons for it within three working days of the decision.

35 Confirmation by the Higher Education Learning & Teaching Committee

- (a) Higher Education Learning & Teaching Committee shall be informed, at its next meeting, of the decision and reasons for the decision of the Appeal Committee, and shall receive the minutes of the hearing approved by the members of the Appeal Committee.
- (b) The decision of the Appeal Committee shall not be subject to further challenge unless it can be demonstrated on a balance of probabilities that the Appeal Committee:
- was not constituted in accordance with these regulations, or
 - acted outside its jurisdiction under these regulations
- (c) An appellant who wishes to challenge a decision of the Appeal Committee on one of the grounds in paragraph 35(b) above, shall be required to write to the chair of HELTC within 14 days of being informed of the decision of the Appeal Committee, detailing the evidence supporting the challenge.
- (d) Where a challenge is received in accordance with paragraph 35(c), the matter shall be considered by the full Committee, in the absence of the Chair who chaired the Appeal Committee.
- (e) Where the Higher Education Learning & Teaching Committee is satisfied on a balance of probabilities that the Appeal Committee acted in breach of paragraph 35(b), it shall declare the decision of the Appeal Committee invalid and order a new hearing before a Committee not involving any of the members of the previous Appeal Committee.
- (f) Where the Higher Education Learning & Teaching Committee is not satisfied on a balance of probabilities that the Appeal Committee acted in breach of paragraph 35(b), it shall reject the challenge. Where the challenge is so rejected the decision of the Higher Education Learning & Teaching Committee shall be final and not subject to any other appeal or challenge within the RNN Group.
- (g) Where an appellant wishes to challenge the decision of the Chair under Regulation 30 above, that *prima facie* grounds for appeal have not been demonstrated, paragraphs 35(b) to 35(f) shall apply. All references to the Appeal Committee shall be read as references to the Chair.
- (h) At the request of the Chair, the relevant member of the Higher Education & Skills Department shall undertake such further investigation as the Chair deems proper in the light of the grounds set out in the statement of appeal.

36 Office of the Independent Adjudicator for Higher Education (OIA)

- (a) A complainant who remains dissatisfied with the outcome of the decision of the Appeal Committee may be entitled to complain to the Office of the Independent Adjudicator for Higher Education (OIA).

**PART V:
FRESH EVIDENCE AND RETROSPECTIVE INVESTIGATION**

37 Fresh Evidence

- (a) Where a candidate, or other person, has evidence which was not considered by an Adjudicating Panel (or Academic Head) in determining an allegation, that evidence shall be presented to the Chair of Adjudication Panel who shall determine whether the case should be reconsidered.
- (b) The Chair shall determine that reconsideration shall take place only if he or she is satisfied that the evidence was not available to the Panel, or could not reasonably have been made available, at the time of the original determination.
- (c) If the Chair determines that reconsideration shall not take place the matter shall be deemed closed and the decision of the Adjudicating Panel shall stand. The candidate and any other relevant persons shall be informed in writing by the Academic Head within seven days.
- (d) If the Chair determines that reconsideration shall take place he or she shall cause an Adjudicating Panel to be established - which may be the same as the original Panel - and the Panel shall follow the procedures in Part III above, determining the matter in the light of the original and fresh evidence. Any decision of the Panel under this regulation shall supersede any earlier determination.
- (e) Where an investigation undertaken under this regulation results in the Adjudicating Panel determining that a breach of these regulations has been proven, and the candidate has by the time of that determination progressed to a stage or more beyond the stage in which the module deemed to be tainted was undertaken. The Panel shall be empowered to disregard the minimum penalty if it judges that this would be appropriate in the circumstances of the case.

38 Retrospective investigation

- (a) The completion of the assessment for a module, progression to the next stage of the qualification, or the award or conferment of the qualification shall not be a barrier to an investigation in accordance with these regulations.
- (b) In investigating any allegation under this regulation, due regard shall be had to the difficulties for the candidate of defending such an allegation, especially where there has been a significant passage of time since the events alleged to involve a breach of these regulations.
- (c) In the event of an investigation under this regulation resulting in the Adjudicating Panel determining that a breach of these regulations has been proven, the Panel shall be empowered:
 - Where the candidate has progressed to the next stage of the programme to disregard the minimum penalty if it judges that this would be appropriate in the circumstances of the case, other than the issuing of a College Warning
 - Where the relevant qualification has been awarded or conferred, the qualification shall be rescinded only in the event of a second breach of these regulations being proven. In the event of a first breach being proven, the award or qualification shall stand, but the details of the breach shall be recorded on the candidate's record and official transcript

PART VI
MONITORING

39 Monitoring by Departments

The Academic Head shall provide as an annexe to the Programme Self Evaluation Document the following information relating to the previous academic session divided by department or equivalent unit, mode, level of study, taking into account gender, disability and ethnic origin:

- The number of cautions issued
- The number of allegations rejected without holding an Adjudication Panel (no prima facie case and satisfactorily explained)
- The number of Adjudication Panels held, divided by plagiarism/other form of unfair means
- The number of allegations upheld/rejected
- The number of cases arising from retrospective investigation
- The penalties imposed for those allegations upheld

40 Monitoring by Higher Education Learning & Teaching Committee

Higher Education Learning & Teaching Committee shall review a report annually divided by department or equivalent unit, mode, level of study, taking into account gender, disability and ethnic origin, on:

- the number of appeals lodged
- the number upheld/rejected following a hearing
- the number rejected as no prima facie case
- the number of challenges under reg. 35
- the number of cases investigated by the OIA, upheld and rejected

Annexes

Annexe 6I (1) The Caution letter