



PRIFYSGOL CYMRU
Y Drindod Dewi Sant
UNIVERSITY OF WALES
Trinity Saint David

UNFAIR PRACTICE PROCEDURE

13.8 Unfair Practice Procedure

13.8.1 General Principles

- (1) The University will investigate all allegations of unfair practice, in each case implementing a consistent unfair practice procedure.
- (2) It is unfair practice to commit any act, intentional or otherwise, whereby a person may obtain for himself/herself or for another, an unpermitted advantage, which may or may not lead to a higher mark or grade than his/her abilities would otherwise secure.
- (3) A claim that unfair practice is related to the re-use of one's own material which has previously been submitted to the University in any form is no defence, except where such re-use has been explicitly authorised under the regulations.
- (4) A claim that unfair practice has been committed unintentionally or accidentally is no defence.
- (5) A claim that unfair practice has been committed due to extenuating circumstances or a long-term impairment (irrespective of whether or not these circumstances or long-term impairment have been acknowledged by the University) is no defence.

13.8.2 Identifying allegations of unfair practice

- (1) Deans of Faculty and Heads of School should identify a School Unfair Practice Co-ordinator to take responsibility for recording and co-ordinating allegations of unfair practice within each School.
- (2) **In examinations**
 - (i) An invigilator who considers, or suspects, that a student is engaging in an unfair practice during an examination shall inform the student, preferably in the presence of a witness, that the circumstances will be reported. Failure to give such a warning shall not however prejudice subsequent proceedings. The invigilator will also inform the student that he/she may continue with his/her current, and any subsequent, examination(s) without prejudice to any decision which may be taken.
 - (ii) Where appropriate, the invigilator shall confiscate and retain evidence relating to the alleged unfair examination practice, so that it is available to any subsequent investigation. The invigilator shall report the circumstances to the School Unfair Practice Co-ordinator for further investigation as soon as possible using the Unfair Practice Investigation Form (Appendix GA6), including any confiscated evidence.
- (3) **Other than in examinations**
 - (i) When a Module Tutor suspects unfair practice other than in an examination - in relation, for example, to assessed coursework, dissertations or theses - the Tutor shall seek to document the evidence of unfair practice as thoroughly as possible.
 - (ii) The Module Tutor shall complete the Unfair Practice Investigation Form (Appendix GA6) and submit it to the School Unfair Practice Co-ordinator for further investigation as soon as possible, along with a copy of any relevant evidence.

(4) During or subsequent to the marking period

- (i) An internal or external examiner who, whether in the course of the marking period or subsequently, considers or suspects that a student has engaged in unfair practice, shall report the matter in writing to the School Unfair Practice Co-ordinator for further investigation at the earliest possible opportunity.

13.8.3 Initial investigation of allegations of unfair practice

- (1) The School Unfair Practice Co-ordinator shall undertake an investigation into the allegation to determine whether or not there is sufficient evidence of unfair practice to proceed with the allegation.
- (2) In cases where it is difficult to document the evidence of unfair practice (such as when a student is suspected of having used the service of an essay bank), the School Unfair Practice Co-ordinator, may convene an oral examination to determine whether or not there is sufficient evidence of unfair practice to proceed with the allegation.
- (3) Oral examinations will consist of a meeting between the student, a senior academic from the student's School and the Module Tutor as well as a note-taker. The student may choose to be accompanied at the oral examination by a representative from Student Services. In the oral examination the student will be asked to critically reflect upon his/her work and defend its content in order to demonstrate that the submission was his/her own work. Students should be informed that they will be required to attend the oral examination and should be provided with details of the specific date, time and location of the oral examination. In the case of distance learning students, the oral examination may be conducted via video-link or audio link.
- (4) If the finding of the oral examination is that there is sufficient evidence to support the allegation of unfair practice, then the findings of the oral examination will form the basis of the evidence which is presented to any subsequent investigation.
- (5) If, it is concluded that there is not sufficient evidence to support the allegation of unfair practice, then the Module Tutor will be instructed to mark the student's work following normal procedures. A record of all the relevant paperwork will be kept by the Academic Office.
- (6) If it is concluded that there is sufficient evidence to support the allegation of unfair practice, then the completed Unfair Practice Investigation Form (Appendix GA6) will be submitted to the Academic Office which will initiate the next stage of the unfair practice procedure.

13.8.4 Process for consideration of allegations of unfair practice

- (1) The Academic Office will establish whether or not there are any concurrent allegations of unfair practice or any previous substantiated allegations of unfair practice against the student.
- (2) The Academic Office will contact the student, outlining the allegation of unfair practice, the evidence available, noting the Unfair Practice Guidelines and Penalties and giving an indication of the penalty which would be applied should the student accept the allegation. The student will be asked to respond to the allegation, normally within 5 clear working days, either accepting or denying the allegation of unfair practice. If no response is received within this time, it will be understood that the student has accepted the allegation of unfair practice.
- (3) If the student denies the allegation of unfair practice, then a Panel of Inquiry will be established to consider the allegation (see Section 13.8.5).

- (4) If a student accepts the allegation of unfair practice, then the appropriate penalty as indicated by the Unfair Practice Guidelines and Penalties will be applied (see Section 13.8.9). The student shall be notified formally in writing of the penalty applied.
- (5) Following notification of the penalty applied, a student may request that an allegation which has been accepted be considered by a Panel of Inquiry by informing the Academic Office within 5 clear working days of the formal notification of the penalty applied.

13.8.5 The Panel of Inquiry

- (1) Where an allegation of unfair practice is referred to a Panel of Inquiry, the Academic Office will establish the Panel of Inquiry as soon as possible, normally within 20 clear working days of receiving instruction to establish the Panel. In the event that it takes longer to verify the facts to which the allegation refers, this period may be extended. The Academic Office will inform the student that a Panel of Inquiry is being established to consider the case.

- (2) **Terms of Reference**

- a) To consider the evidence submitted in relation to the allegation of unfair practice.
- b) To determine whether the allegation has been substantiated, normally on the balance of probabilities.
- c) To make a definitive statement on the extent or level of unfair practice in cases where an allegation has been substantiated.

- (3) **Membership**

- a) The Senate will identify a standing group of appropriately qualified and experienced staff from across the Faculties and Support Services to serve as possible members of Panels of Inquiry.
- b) The Academic Office will make arrangements for two members of staff from the standing group to sit on each Panel of Inquiry. In addition, the Chair of the Panel will normally be a Senior Officer of the University (such as Dean of Faculty, Assistant Dean, Head of School, or Head of Support Unit)
- c) The Secretary shall be a central appointment, normally from the Academic Office.
- d) No member of the Panel of Inquiry shall come from a Faculty in which the student has studied or is studying. Staff should not agree to be a member of the Panel of Inquiry if the student is known to them.
- e) Where appropriate, an external person may be appointed as an additional member of a Panel of Inquiry.

- (4) **Preparing documentation for the Panel of Inquiry**

Documentation for the Panel of Inquiry will be prepared by an appropriate officer of the University. All documents considered in identifying the allegations, the initial investigation of allegations, and the consideration of allegations must be included in the documentation for the Panel of Inquiry.

13.8.6 Arrangements for the Panel of Inquiry

- (1) Once the membership of the Panel of Inquiry has been established, the Secretary shall:
 - a) send the student copies of all documents to be placed before the Panel of Inquiry and any statements of witnesses; request the student to indicate which documents or statements are agreed and which are in dispute; invite the student to submit any additional statements and nominate any relevant witnesses;
 - b) identify a date, time and place for the meeting of the Panel of Inquiry;
 - c) notify members of the Panel of Inquiry of the date, place and time of the meeting and supply them with copies of the allegation, the supporting evidence and any agreed statements provided by the student;
 - d) inform the student of the date, place and time when the Panel of Inquiry intends to meet and that he/she shall have the right to be accompanied, to hear all the evidence, and to question witnesses. The student shall be required to inform the Secretary whether or not he/she intends to attend the meeting of the Panel of Inquiry. If for reasons of distance, physical attendance in person is not possible, the student will be invited to contribute via video-link or audio link or to make an additional written submission. If the student does not attend the meeting, and provided that all reasonable means have been taken to contact the student, the Panel of Inquiry shall proceed in his/her absence;
 - e) inform the student that he/she shall have the right to be accompanied at the Panel of Inquiry by a member of academic staff, Student Services or a representative from the Students' Union, and is required to inform the Secretary in writing in advance of the meeting whether he/she intends to be accompanied. Legal representation shall not be allowed. An accompanying person shall not normally contribute to the discussions, but the Panel of Inquiry shall have the discretion to invite their contribution if it believes that this will assist them in reaching a decision.

(2) Procedure during the Meeting

- (i) The case against the student will be presented by an appropriate officer of the University, calling such witnesses and presenting such evidence as appropriate. The Faculty will always be invited to send a witness. No details of prior substantiated allegations should be provided to members of the Panel. The member of staff presenting the case may question both the student and witnesses.
- (ii) The student shall be invited to respond to the case presented against him/her and to call and question any previously nominated witnesses.
- (iii) Members of the Panel may question the member of staff presenting the case, the student and any witnesses in order to explore areas of interest or concern.
- (iv) Witnesses can only be concerned with evidence relating directly to the allegation and shall withdraw after questioning.
- (v) When the submission of evidence and the questioning of witnesses are completed, the student shall be invited to add any further points which he/she may wish to bring to the attention of the Panel. The Panel reserves the right to recall witnesses if considered necessary.

- (vi) All persons other than the members of the Panel shall withdraw and the Panel of Inquiry shall then consider whether the allegation has been substantiated in private session.
- (vii) If the finding of the Panel of Inquiry is that the allegation has been substantiated, then the members of the Panel shall make a definitive statement on the extent or level of unfair practice, taking into account the information from the Unfair Practice Investigation Form (Appendix GA6) and any subsequent evidence from the Panel of Inquiry. The appropriate penalty as indicated by the Unfair Practice Guidelines and Penalties will be applied (see Section 13.8.9).

13.8.7 Action to be taken following the Panel of Inquiry

- (1) The minutes of the Panel of Inquiry will include the Panel's decision in relation to the alleged unfair practice and the reasons for the decision, together with details of the penalty applied in cases where the allegation is substantiated.
- (2) If the finding of the Panel of Inquiry is that the allegation has not been substantiated, the student shall be notified formally in writing of the Panel's decision and that the matter is therefore closed, normally within 5 clear working days, of the meeting of the Panel. The relevant Dean of Faculty, Head of School, Programme Director and Module Tutor shall also be notified of the outcome. The student's work will then be marked following normal procedures. A record of all the relevant paperwork will be kept by the Academic Office.
- (3) If the finding of the Panel of Inquiry is that the allegation has been substantiated, the student shall be notified formally in writing of the Panel's decision and of the penalty applied, normally within 5 clear working days of the meeting of the Panel. The relevant Dean of Faculty, Head of School, Programme Director and Module Tutor shall also be notified of the outcome.
- (4) In the event that the allegation has been substantiated, the appropriate Examining Board will be informed of the decision and the penalty to be applied. The Examining Board will then determine the student's overall result and, where appropriate, the retrieval position. If the appropriate Examining Board has already met, then the Examining Board will either be reconvened or Chair's action will be taken to re-determine the student's overall result and, where appropriate, the retrieval position. A record of all the relevant paperwork will be kept by the Academic Office.
- (5) The student shall be informed of his/her right of appeal against the decision of the Panel of Inquiry and the penalty applied in relation to the unfair practice.

13.8.8 Appeals against Unfair Practice Decisions and/or Unfair Practice Penalties

- (1) The University is only prepared to consider appeals which are based on the following grounds:
 - irregularities in the conduct of the unfair practice procedure, which are of such a nature as to cause reasonable doubt whether the same decision would have been reached and/or the same penalty would have been applied had they not occurred.
- (2) Any appeal against an Unfair Practice decision and/or Unfair Practice penalty must be sent to the Academic Office on the University's Unfair Practice Appeal Form (Appendix GA7) normally not later than 15 clear working days after official notification of the decision and penalty applied. Simple notice of appeal given in writing by a student within the above deadline shall not be deemed to constitute an appeal and shall not be accepted. The Chair shall, at an Unfair Practice Appeal Panel meeting, have discretion to declare inadmissible any matter introduced by the appellant, or by any witness or person accompanying the

appellant, if he/she deems it not directly related to the contents of the appeal previously lodged in writing within the stipulated deadline.

- (3) The Academic Office shall acknowledge receipt of an appeal normally within 5 clear working days. Where appropriate to the circumstances of the case, the appeal shall be referred to the Chair of the relevant Panel of Inquiry or other appropriate officer for verification.
- (4) The Academic Office will disallow any appeal normally within 20 clear working days of its receipt which is based on factors which are deemed as inappropriate as grounds for defence under the General Principles in Section 13.8.1 and/or were known to the Panel of Inquiry when the penalty was imposed. The appellant shall be informed, in writing, by means of a Completion of Procedures letter that the appeal has been disallowed.
- (5) If it is decided that there is a clear case to be considered, it shall be referred to an Unfair Practice Appeal Panel consisting of up to three persons:
 - 1) Pro Vice-Chancellor (Academic) or nominee (Chair).
 - 2) A representative nominated by a Dean of Faculty other than the Faculty in which the appellant is studying or has studied.
 - 3) Where appropriate, a suitably qualified external representative with appropriate experience of working within a Higher Education Institution.

The Unfair Practice Appeal Panel shall normally meet within 20 clear working days of the appeal being referred to it. In the event that it takes longer to verify the facts to which the submission refers, this period may be extended.

- (6) The Unfair Practice Appeal Panel shall have delegated powers to act on behalf of the Senate.
- (7) An appellant shall be offered a personal hearing by the Unfair Practice Appeal Panel. The appellant shall accordingly be informed in advance of the time and date of the meeting and that he/she shall have the right to be accompanied, to hear all the evidence, and to call and question witnesses. The appellant may be accompanied by a member of academic staff, Student Services, or representative from the Students' Union. The accompanying person shall not normally contribute to the discussions, but the Unfair Practice Appeal Panel shall have the discretion to invite their contribution if it believes that this will assist them in reaching a decision. Legal representation is not allowed. The appellant may nominate relevant witnesses to provide evidence which relates directly to the grounds of the appeal. Such witnesses shall be informed of the date, time and place that have been set for the appeal hearing.
- (8) If for reasons of distance or other significant matters (to be agreed by the Academic Office), physical attendance in person is not possible, the appellant may be invited to contribute via video-link, audio link or to make an additional written submission. The appellant may not send another person to an Unfair Practice Appeal Panel in his/her stead. Should the appellant not attend the meeting of the Unfair Practice Appeal Panel and provided that all reasonable means have been taken to contact the appellant, the meeting shall proceed in his/her absence.
- (9) The Chair of the Unfair Practice Appeal Panel may require the Chair of the relevant Panel of Inquiry or any other member of staff to contribute to the hearing as witnesses and should ensure that any such individuals are informed of the date, time and place that have been set for the appeal hearing.
- (10) The Unfair Practice Appeal Panel must limit its consideration to determining whether there were irregularities in the conduct of the unfair practice procedure, which are of such a nature as to cause reasonable doubt whether the same decision would have been reached and/or

the same penalty would have been applied had they not occurred and shall base its decisions on the evidence of the appellant's submission and the testimony of any witnesses, together with any further evidence which it considers relevant. The Unfair Practice Appeal Panel, when considering its decision, shall meet in private session.

- (11) The Unfair Practice Appeal Panel shall be empowered to take one of the following decisions:
 - a) to reject the appeal and uphold the original decision of the Panel of Inquiry and/or penalty applied;
 - b) to uphold the appeal and to refer the case back to a Panel of Inquiry for a review of the decision.
- (12) Where a case is referred to a Panel of Inquiry, the Unfair Practice Appeal Panel should indicate whether or not the membership of that Panel should be entirely different from that of any previous Panel of Inquiry which considered the case.
- (13) The decision of the Unfair Practice Appeal Panel shall be final, and the matter shall, therefore, be regarded as closed. There shall be no discussion of the decision of the Unfair Practice Appeal Panel with the appellant or any other person.
- (14) The Unfair Practice Appeal Panel may make recommendations for consideration by the Academic Quality and Standards Committee or the Senate as appropriate on any matters arising from the consideration of appeals.
- (15) A full report of the decisions of the Unfair Practice Appeal Panel shall be produced.
- (16) In the case of Section 13.8.8 (11) a) above, the outcome of the appeal shall be communicated to the appellant, in writing, by means of a Completion of Procedures letter, normally within 15 clear working days of the meeting of the Unfair Practice Appeal Panel.
- (17) In the case of Section 13.8.8 (11) b) above, the appellant shall be informed that the case has been referred to a Panel of Inquiry and the procedures set out in Sections 13.8.5 to 13.8.6 will be followed. Where the Unfair Practice Appeal Panel determined that the membership of the Panel of Inquiry should be entirely different from that of the previous Panel, the new Panel shall not be provided with any information on the decision of the previous Panel of Inquiry or of any matter discussed by the Unfair Practice Appeal Panel, other than that it is re-hearing a case on appeal.
- (18) The appellant shall be informed of the decision of the Panel of Inquiry normally within 10 clear working days of the meeting of the Panel of Inquiry. There shall be no right of appeal under the University's internal procedures against the decision of a Panel of Inquiry where the case has been referred back by an Unfair Practice Appeal Panel and if the student is dissatisfied with the outcome, a Completion of Procedures letter shall be issued.
- (19) Where an appeal has been submitted, the original unfair practice decision and penalty shall stand until the outcome of the Unfair Practice Appeal Procedure is known.
- (20) In the event that the appellant is not prepared to accept the decision to disallow the appeal, or the decision of the Unfair Practice Appeal Panel to reject the appeal, or is dissatisfied with the decision of a Panel of Inquiry following an appeal which has been upheld, the appellant will be advised via the Completion of Procedures letter, that he/she can take his/her complaint to the Office of the Independent Adjudicator (OIA) for Higher Education.
- (21) Complaints to the Office of the Independent Adjudicator (OIA) for Higher Education must be made within 3 months of the date of the Completion of Procedures letter. Full details of the

procedure will be available from the Academic Office or from the OIA website:
www.oiahe.org.uk

13.8.9 Unfair Practice Guidelines and Penalties

- (1) The University's Unfair Practice Guidelines and Penalties was developed with reference to the findings of the Joint Information Systems Committee (JISC) and Higher Education Academy (HEA) funded Academic Misconduct Benchmarking Research (AMBeR) Project and reflects the subsequent benchmark tariff for the application of penalties for student plagiarism in HE.
- (2) **Guidelines**
Details of the Unfair Practice Guidelines can be found in Appendix GA8.
- (3) **Penalties**
In all cases where the allegation of unfair practice is substantiated (either by the student's own admission or by the findings of a Panel of Inquiry), the outcome is noted on the student's record and the student is placed on a monitoring system such as Academic Probation.

Summative work

Points	Penalty
240 – 329	Formal warning letter (further offences will be repeat offences)
330 – 424	Component awarded mark of 0% (fail)
425 – 524	All components in module awarded mark of 0% (fail)
525 – 559	Student expelled from University and is disqualified from any further study at the University (retains credit previously gained)
560+	Student expelled from University and is disqualified from any further study at the University (loses all credit from programme)