



Senate Handbook

Staff Handbook

Rescinding Awards

This Handbook supplements Regulations governed by Senate.

It includes policies, procedures, advice and/or guidance that staff are expected to follow in the proper conduct of University business.

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Major changes to this document since version 1.3 (September 2019):

- Referenced added to the University Data Retention Policy
- Amended reference to Stage 3 of an appeal being known as Review

1 Introduction

This Handbook describes the University's approved procedures for the management of allegations against graduates of the University, which may lead to the rescinding of an award conferred on them by the University. It supplements Regulation 27 of the University's regulations and outlines the details of the procedures that will be followed in the event of an allegation made against one or more graduates.

Rescinding of awards are rare, and are normally the result of:

- (a) errors in administrative processes, resulting in the wrong award being conferred on the graduates;
- (b) errors arising in the examination process, which come to light after the formal conferral of the awards;
- (c) proven fraud or cheating on behalf of the graduate, which comes to light after the formal conferral of the award.

In cases (a) above, the Academic Registrar is appointed, on behalf of Senate, to outline the case to the Chancellor for the awards to be rescinded and, where appropriate, a revised or alternative award to be conferred.

In cases (b) above, the relevant Director of Education or Director of Research presents a case to Senate for approval of remedial actions and activities, which takes into account the impact on the graduates concerned. A report, approved by the Chief Executive and Vice-Chancellor on behalf of Senate, will then be presented to the Chancellor, including any recommendations for the rescinding of awards and, where appropriate, revised or alternative awards to be conferred.

In cases (c) above, and on the receipt of sufficient evidence to demonstrate a *prima facie* case, the Academic Registrar will arrange for a formal investigation into the allegations of academic misconduct. The findings of any investigation will be presented in a report to the Chief Executive and Vice-Chancellor, who will make a recommendation to rescind the award to the Chancellor, on behalf of Senate. This Handbook outlines the processes and procedures relating to such formal investigations.

2. General principles

2.1 Who do these procedures apply to?

All graduates (i.e. people who have received a formal academic award or distinction of the University) are potentially subject to the procedures outlined in this Handbook.

Members of staff who are also graduates may additionally be subject to the disciplinary procedures applicable to staff, as outlined in Ordinance 22.

2.2 Who can make an allegation?

Allegations giving rise to an investigation can come from any person, whether they are a member of the University or not: allegations may be made by individuals, groups of people or by institutions (e.g. companies, the police, etc.). An allegation will not normally be accepted unless it is made in writing and can be substantiated: the University reserves the right to make a judgement on whether or not to consider allegations made anonymously.

The University also reserves the right to dismiss without investigation allegations which appear vexatious or malicious: this may include circumstances where serial allegations are made by, or about, the same individual(s).

3 Broad outline of the stages of an investigation

All investigations are managed in the following way:

- STAGE 1** *informal investigation*
- review of submitted allegation and evidence in order to establish whether there is a *prima facie* case to be answered
 - outcomes may be that the allegations are either dismissed and reported to the Chief Executive and Vice-Chancellor, or accepted, with a formal investigatory panel being appointed



Prima facie case established

- STAGE 2** *formal investigation*
- a full and documented investigation is undertaken to verify the truth of any allegation and determine any appropriate penalty or redress
 - outcomes may be dismissal of the allegation, or confirmation of the allegation, with an appropriate rescinding of the award being recommended to the Chief Executive and Vice-Chancellor



Graduates have the right to request a review of any decision made at Stage 2 under certain circumstances – see Stage 3.

- STAGE 3** *review*
- graduates may request a review of the outcome of a Stage 2 investigation to the Secretary to Council under certain circumstances
 - The Secretary to Council can either dismiss the review (if it is not appropriate) or will review how the original investigation(s) was conducted
 - the review will either be dismissed by them, or the Chief Executive and Vice-Chancellor will be advised that the original decision should be overturned

If at this stage the graduate believes they have been treated unfairly, they can complain to a body outside of the University

4 Conduct of investigations – guidance to investigators

Graduates who are under investigation and Stage 2 investigators are both entitled to specific rights. Please pay close attention to these, as failure to adhere to them may result in grounds for a review.

4.1 Transparency

During the course of any investigation, the graduate(s) under investigation must be kept informed at all times of:

- the names of the people who have been appointed to investigate the allegation;
- the projected timescales for the completion of any investigation and, if there are unexpected delays or deferrals, any revised timescales;
- all evidence received or collected by the investigators;
- the final decision of the investigators, in the form of a written report for a Stage 2 or Stage 3 investigation.

This will normally be done by the secretary of the investigatory panel. In addition, they will remain in regular contact with the graduate(s) under investigation, keeping them up to date on how the investigation is progressing.

The secretary of the investigatory panel will also ensure that the graduate(s) are kept informed of any evidence obtained, especially if they are considered to be key to any final decision. The nature of the evidence should be communicated to the graduate(s) and a copy provided to them on request. If there are concerns about the privacy or confidentiality of the information, a Data Protection Co-ordinator should be consulted for further advice.

When gathering evidence, you should make it clear to any persons that the information will be shared with the graduate under investigation, unless there are clear and pressing reasons for this not to be the case. Even if there are reasons, it cannot be guaranteed the information will not be disclosed due to the University's data protection policy.

If evidence is provided to the graduate(s) under investigation, you should remind them of their right to rebut or dispute the honesty or accuracy of that evidence, giving them clear timescales of when and how they should do this.

The person(s) making the initial allegation should be informed of the outcome at the end of the process.

4.2 Right to a fair hearing

The University takes any investigation very seriously, and is committed to ensuring that it appoints investigators who are not prejudiced or biased against any person involved in the investigation.

At Stage 2 if you believe as an appointed investigator, you are already too familiar with the circumstances of the case or the individual graduate(s) to be objective about the investigation, then you should discuss this as soon as possible with the Academic Registrar. Exceptionally, you may become aware of such conflicts of interest as an investigation progresses, and you should disclose any concerns as soon as they may arise. The Academic Registrar will then consider whether those circumstances represent a conflict of interest in you serving as an investigator, and will either arrange for a different investigator(s) to be appointed or explain to you why this is not appropriate or necessary.

4.3 Gathering evidence and holding meetings

As an investigator, you have the right to interview any persons you believe are necessary to complete your investigation. This will always include the graduate(s) under investigation, providing that they can be contacted and are receptive to meeting you. Where the graduate proves unable to be contacted through all reasonable means, you should proceed with the investigation, informing the graduate(s) of the allegation at their last recorded contact addresses will be deemed to have informed the graduate (as specified in Regulation 27).

The graduate(s) under investigation may otherwise refuse to meet you or provide evidence. If they choose to exercise this right, you should remind them that failure to do so may result in any review of (Stage 3) the final decision on the grounds of incomplete evidence being deemed invalid by the Secretary to Council. You should then proceed with your investigation to the best of your ability.

When you meet with the graduate(s) under investigation, or with any other key witnesses, they have the right to be accompanied by a person of their choice. Please refer at all times to this person as their “friend” (irrespective of their status or professional role).

Graduates and witnesses may only bring a friend to a meeting with you if they have notified you in advance. If they have not, you should feel free to cancel and re-arrange the meeting at a future point, if you feel uncomfortable about proceeding. The friend is entitled to discuss any matter with the graduate during the course of the meeting (including requesting a private discussion out of your hearing), but is not entitled to represent the graduate or the graduate’s views on their behalf.

Graduates and witnesses also have the right to ask for a reasonable deferral of any meeting with you, or any deadline of request for information from you, but only on the grounds that they need further time to prepare for the requested meeting or information. You can continue your investigations in the meantime, but please let them know that that is your intention. You may also decide to conclude the investigation without that input if you deem their deferrals to be unreasonable.

4.4 Taking notes

Please remember to take accurate notes at all times, including dates and times of meetings, who was present, and any important facts or conclusions made during the meeting. Depending on the nature of the investigation, you may want to provide the graduate(s) under investigation with a written summary of the meeting for them to agree with you. (Graduates may also wish to reconcile their own notes with yours and you should respond to reasonable requests to do so.)

You should also take notes of any attempts made by you to obtain information, and record where the graduate(s) under investigation have not been co-operative.

These records should be kept for the duration of the investigation, and then passed to the Academic Registrar, who will retain the records in line with the University’s Data Retention Policy.

5 Stage 1 – Informal investigation

Allegations should be made in writing to the Academic Registrar, and should be accompanied by sufficient evidence to present a prima facie case. They will review the evidence provided and communicate with the person making the allegation about whether an investigation will be taken forward.

On the receipt of sufficient evidence, the Academic Registrar will propose no fewer than three members of Senate to form an investigatory panel. The Academic Registrar will also appoint a suitable member of staff to act as secretary to the panel. The proposal will be approved by the Chief Executive and Vice-Chancellor, on behalf of Senate.

In the event of the Academic Registrar dismissing an allegation, they will inform the Chief Executive and Vice-Chancellor that the allegation has occurred, and outline their reasons for dismissing the allegation.

6 Stage 2 – Formal investigation – guidance to investigators

A formal investigation (Stage 2) requires all aspects of the allegation and investigation to be documented fully, and a report to be written. It is highly likely in a formal investigation that you will be required to have a formal and structured meeting with the graduate(s) under investigation, at which notes must be taken.

On being appointed formally by the Chief Executive and Vice-Chancellor to commence an investigation:

- a) please ensure you have read and are familiar with this Handbook;
- b) please contact the graduate(s) under investigation, and explain who you are, and what your role is;
- c) please outline what timescales you think will be needed for the investigation;
- d) please check that the graduate(s) under investigation is aware of the procedures you will follow, and their rights (e.g. bringing a “friend” to meetings);
- e) please outline that you are undertaking a full and formal investigation into the allegation and you will either:
 - i. recommend to the Chief Executive and Vice-Chancellor that the allegation be dismissed as being unproven; or
 - ii. recommend to the Chief Executive and Vice-Chancellor that their award be formally rescinded by the Chancellor of the University.

At all times, keep the graduate(s) under investigation apprised of the progression of the investigation.

All investigations will result in a formal report which will be provided to the graduate(s) under investigation, with a copy being retained by the Academic Registrar. Any investigation that results in the allegation being proven will be placed against the student record in Education Services.

At the conclusion of the investigation:

- a) please inform the graduate(s) that the investigation has been concluded and inform them of your recommendation to the Chief Executive and Vice-Chancellor;
- b) complete a full and accurate report of your investigation, which should include:
 - i. a clear decision on each element of the allegation;
 - ii. a clear recommendation to either dismiss the allegation(s), or otherwise hold the allegation(s) to be fully or partially true;
 - iii. a clear recommendation for the Chief Executive and Vice-Chancellor to consider;
 - iv. a list of evidence you have obtained to support your findings, highlighting the key elements leading to your conclusions.

At that point, the Chief Executive and Vice-Chancellor will receive the report and review your recommendation. Following their decision, the Academic Registrar will formally communicate the outcome to the graduate(s) and the person(s) who made the initial allegation, and raise the matter with the Chancellor, if appropriate, allowing sufficient time for the graduate(s) to request a review of the decision.

A copy of the final report will be provided to the graduate. In the event that the allegation is upheld, the Academic Registrar will inform the graduate of their right to request a review of the decision (see Section 7). Any such request must be made in writing within twenty working days of their formal receipt of the decision of the Chief Executive and Vice-Chancellor.

Your role as investigator is then concluded (although you may be asked to contribute to any future related review).

7 Stage 3 – Review

The University takes allegations and their investigations extremely seriously, and acts in an appropriate manner to ensure that fairness for all parties is maintained throughout. It will likely assert that decisions arising from an investigation have been the result of a fair and thorough investigation, and are based on evidence provided by the parties concerned. The graduate(s), however, have the right to request a review under particular circumstances:

- A. that the decision of the investigators at Stage 2 was based on incomplete or inaccurate evidence, to the extent where it is reasonable to conclude that the decision may have been different;
- B. that the investigators were prejudiced or biased against one or more persons connected with the allegation, including any undisclosed conflicts of interest.

Any request for a review must be submitted within twenty working days of the notification of the Stage 2 decision, and will be reviewed by the Secretary to Council, whose decision on the matter will be considered final. The review will focus on the specific grounds cited, and are in essence limited to an investigation of how the Stage 2 investigation was conducted. The Secretary to Council will review the report and any evidence submitted with the request for a review to determine whether the University has acted fairly.

On receipt of a formal written request for a review, the Secretary to Council will:

- a) outline to the graduate(s) what timescales they think will be needed for the investigation;
- b) outline to the graduate(s) that they will undertake a review of the previous investigation and will either:
 - i. dismiss the review; or
 - ii. recommend to the Chief Executive and Vice-Chancellor that the decision to rescind the award be overturned, with reasons why.
- c) review all of the evidence provided by the graduate in their request.

It is not usual during a review for further interviews with any of the parties to take place, although the Secretary to Council may choose to do so in order to come to a reasonable conclusion.

All Stage 3 reviews will result in a formal report which will be provided to the graduate(s), with a copy retained by the Academic Registrar. At the conclusion of the investigation, the Secretary to Council will:

- a) inform the graduate(s) that the investigation has been concluded;
- b) where the review is dismissed, they will inform the graduate of that decision and provide a final statement of the formal decision;
- c) otherwise, they will present their conclusions to overturn the original decision to the Chief Executive and Vice-Chancellor, and inform the graduate of the decision, and their reasons why.

8 External complaint

At the completion of Stage 3, the University will consider any decision it has made to be final and complete, with no further right of appeal. This is equally true if any stage 3 review a graduate has made is dismissed summarily, or if the graduate has no grounds for a review.

If a graduate, however, remains dissatisfied with the outcome or with how the University has managed the allegation and its subsequent investigations, they have the right to submit a complaint against the University to the external regulator for the UK higher education sector, the Office of the Independent Adjudicator for Higher Education (OIA).

More information about the OIA can be found at www.oiahe.org.uk

In order for the graduate to use the OIA, the University must agree that they have exhausted the internal procedures. This is managed by the Academic Registrar issuing a “completion of procedures letter” to the graduate, which must be explicitly requested.

A graduate may also request from the Academic Registrar a “completion of procedures letter” at any point in the process if they do not believe the University is capable of following its own procedures fairly, and they do not wish to engage further with the University on this matter.

Please note that the OIA will not consider any complaint from a graduate unless a “completion of procedures letter” has been provided.

Any complaint to the OIA must be registered within twelve months of the University issuing a “completion of procedures letter”.

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