UNIVERSITY OF BIRMINGHAM

CODE OF PRACTICE ON PRIMARY APPEALS PROCEDURES

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1. Principles

1.1 The University will not require students to withdraw, debar them from further examination or assessment or recommend the award of qualifications lower than that for which they have registered without giving them the opportunity to make representations, as described below. In addition, all students affected by adverse decisions on their future in relation to academic progression (for example, students required to repeat a year of study) may make representations.

1.2 These procedures are concerned with Appeals, that is submissions by students seeking the amendment or reversal of a decision taken by the Progress and Awards Board of Senate and Boards of Examiners as a consequence of their academic performance. Mitigations are submissions by students to their principal academic unit, drawing attention to circumstances which may affect, or have affected, their academic performance, submitted prior to meetings of the relevant Board of Examiners.

1.3 The appeals process is not a method of circumventing or setting aside the professional academic judgement of examiners on the performance of students; it is a way of ensuring that as far as possible all relevant circumstances affecting a student's academic performance are brought to light and taken into account before a final decision is taken on the student's future. Consequently, if an appeal is successful, the decision reached will normally be in accordance with the regulations for the programme concerned.

1.4 Appeals that are supported by principal academic units or upheld by Primary Appeals Committees may be subject to certain conditions such as the provision of medical evidence that the student is fit to resume study. If such conditions are not met within a specified timeframe the resolution to support or uphold the appeal may be rescinded and the original decision against which appeal is being made confirmed.

1.5 In considering appeals, the University will observe the rules of natural justice and procedural fairness, namely:

1.5 .1 That whoever takes decisions should be impartial, meaning that there should be no personal interest in the outcome of the case and there should be no apparent likelihood of bias on the part of any member of the *Prima Facie* Panel or Primary Appeals Committee (see also 3.1.1(c) below).

1.5 .2 That each party must be given reasonable notice of the case, and be given the opportunity to state their case in writing. A corollary of this principle is that a body with the power to reach a decision must be able to consider the case fully in the light of all the evidence available. Consequently, the Primary Appeals Committee is empowered to consider all appeals referred to it by the *Prima Facie* Panel and to make a final decision on them, without reference back to the appropriate Boards of Examiners and Progress and Awards Board of Senate except in cases of appeals against degree classifications or other awards.

1.5 .3 If an appeal is referred to a Primary Appeal Committee, the student will be given the opportunity to appear in person and to state their case verbally. All the evidence considered by the Committee will be made available to the Student and to their principal academic unit (except where declared confidential by a third party). This does not mean, however, that if a student indicates that they wish to

be present, a Primary Appeal Committee hearing can only proceed if they are present (see 3.2.5(a), 3.5.2 and 3.5.7).

1.6 Any student who submits an appeal will normally be permitted to continue in attendance on the programme for which they are registered, pending the outcome of the appeal, depending on the circumstances of the particular programme. Students seeking to continue in attendance must consult their principal academic unit on their intended course of action.

1.7 The University will not hear appeals against degree classifications once a degree has been formally conferred by the University at a Degree Congregation or by Special Warrant. Therefore, any student who lodges an appeal will automatically be withdrawn from the Degree Congregations until the appeal is resolved. Due to the timescales involved once an appeal has been submitted, it will not be possible for the student to have their degree conferred until the next Congregation period, at the earliest, even if the appeal is subsequently withdrawn.

2. Grounds for Appeal

2.1 The University will assume that students will normally have brought to the attention of their principal academic unit mitigating circumstances which they consider might have affected their future academic performance and made appropriate submissions in mitigation to their principal academic unit. Such submissions should have been made prior to meetings of the relevant Board of Examiners to enable the Board of Examiners to take such circumstances into account when formulating results and progress and award decisions (and, where appropriate, making recommendations to the Progress and Awards Board of Senate). The *Prima Facie* Panel and Primary Appeals Committee will therefore not normally consider as 'new evidence' information which the student could have brought to the attention of their principal academic unit.

2.2 The University will consider appeals from students against progress decisions (including those which lead to a degree classification) made on the following grounds:

2.2 .1 that there were circumstances unknown to the examiners which contributed to a student's academic performance and consequently to the progress decision against which the appeal is being made, and the student can present good reason for these circumstances not having been made known in mitigation prior to the meeting of the Board of Examiners;

2.2 .2 that there was an administrative irregularity or failure in procedure giving rise to a reasonable doubt as to whether the progress decision would have been different if it had not occurred.

2.3 The University will consider appeals from students who do not observe reasonable diligence and who have been debarred from assessment in a module or who are asked to withdraw from their programme of study made on the following grounds:

2.3 .1 that there were circumstances unknown to the principal academic unit which affected a student's ability to attend and/or complete coursework and consequently contributed to the decision against which the appeal is being made and the student can present good reason for these circumstances not having been made known to the principal academic unit;

2.3 .2 that there was an administrative irregularity or failure in procedure giving rise to a reasonable doubt as to whether the decision would have been different if it had not occurred;

2.3 .3 in the case of postgraduate research students only, that there has been bias in the assessment of their thesis on the part of one or more of the examiners.

2.4 In all cases there is no appeal against the academic judgement of the examiners on the substantive academic performance of students (except in the case of postgraduate research students in the specific circumstances noted in 2.3.3 above). In cases where the principal academic unit or Primary Appeals Committee accepts that there are grounds for appeal against a degree classification or final award (including the award of an alternative qualification if a student is in their final year), it shall refer the matter back to the relevant Board of Examiners. The grounds for such a decision shall be limited exclusively to those specified in paragraph 2.2 above. Appeals cannot be heard against degree classification once the degree has been formally conferred at a degree congregation of the University or by Special Warrant or after the elapse of six weeks of the formal notification of any other final award.

2.5 In the case of research students, it will be expected that difficulties of supervision will have been addressed and solved at an earlier stage than the submission and examination of a thesis. Therefore, inadequacy in supervision during the period of study will not normally be admitted as grounds for appeal. It should be noted that the University's Code of Practice on Supervising and Monitoring of Research Students 3.9 embodies the requirement that principal academic units should have clearly defined procedures for students to make representations to the Head of principal academic unit or their nominee if they feel that their work is not proceeding satisfactorily for reasons outside their control, including the breakdown of relationships with their supervisor.

3. Prima Facie Panel and Primary Appeals Committees

3.1 Membership

3.1 .1 The membership of Appeals Committees, and the Prima Facie Panel shall comply with Academic Regulations section 9, Assessment, Progression and Awards, in particular:

(a) Each Primary Appeals Committee, and *Prima Facie* Panel shall comprise no fewer than three persons appointed by the Senate or its delegated authority with provision for substitution where necessary.

(b) The Chairpersons of the Primary Appeals Committees and the *Prima Facie* Panel shall be appointed by the Senate or its delegated Authority. A deputy chairperson shall also be appointed to chair the Panel / Committee in the absence of the chairperson.

(c) A registered student of the University, appointed by the Guild of Students, may attend meetings of the *Prima Facie* Panel in an observational role only. They will not be part of the decision making process of the Panel and will only be able to address the panel at the discretion of the Chair.

(d) No person shall serve in respect of a case in which they have a personal interest, or when he or she has personal knowledge of the student arising

out of an academic or pastoral connection with the individual concerned.

3.1 .2 In addition:

(a) No person shall serve in respect of a case where they are a member of the same principal academic unit as the student.

(b) For any given appeal, the membership shall include at least one member of the same gender as the student submitting the appeal.

(c) If the student objects on reasonable grounds to any member of the Primary Appeals Committee that person may, at the discretion of the Chairperson, be required to withdraw. Proceedings shall, if necessary, be adjourned until a replacement is appointed.

(d) No member of the Primary Appeals Committee may leave the room during a hearing for any reason, unless the hearing is adjourned.

(e) The secretary to the *Prima Facie* Panel and Primary Appeals Committee shall be the Director of Academic Services or their representative. The secretary will not have a say in the decision of the *Prima Facie* Panel or Primary Appeals Committee but will provide guidance on procedure and precedence where appropriate. The secretary will keep a written record of all proceedings of the *Prima Facie* Panel and Primary Appeals Committee.

3.2 Student Submissions

3.2 .1 **Informing students of their right of appeal**

(a) All students for whom the decision of the appropriate Boards of Examiners or Progress and Awards Board of Senate is “withdraw”, or “debar from examination”, or in whose case the effect of the decision is to require an additional period of attendance or the award of a lower qualification, will be advised of their right to appeal against this decision. Any submission must be made by the deadline specified in the notification to the student of the decision of the appropriate Progress Board or Board of Examiners. The notification will refer the student to websites listing possible sources of help and advice, including the Guild of Students (The Advice and Representation Centre), the University’s Student Support and Counselling Service and the student’s personal tutor. The notification will be issued so as to arrive, where possible, with the student not less than forty-eight hours before the deadline for receipt of the student’s written submission.

(b) Other students affected by adverse decisions on their future may also make representations and shall be given procedural advice as appropriate. The right of appeal will be advertised on the University’s website.

3.2 .2 Appeals documentation will be available via the University website or the Academic and Student Administration counter.

3.2 .3 <u>Correspondence address</u>

Students must confirm their address for any further communications

concerning the appeal. All communications will be sent to this address in the expectation that the student will be there to receive them. It is the responsibility of the student to inform the Student Conduct and Appeals section of the Academic and Student Administration division immediately of any change of permanent or correspondence address. The University cannot accept responsibility of the consequences of the failure of a student to receive notice of a hearing, because they were not at the notified correspondence address. In accordance with paragraph 3.5.7, below, the hearing will proceed in the student's absence if there is a reasonable expectation that notice of the hearing would have reached them in time, had they been there.

3.2 .4 **Submission forms**

(a) Written submissions on the appropriate form are required in all cases. It is the student's responsibility to complete the form appropriately. Failure to do so will not constitute grounds for a procedural irregularity.

(b) The written submission must identify clearly:

(i) the decision (or part of the decision) against which an appeal is being made;

(ii) the grounds upon which the appeal is made;

(iii) the revised decision or relief being sought (the relief being sought should comply with the regulations for the programme of study concerned);

(iv) and, in addition, must include all explanatory and supporting documentation.

(c) The student must complete the summary sections of the form. The summary sections will be used by the *Prima Facie* Panel to determine whether a student has established grounds for appeal under section 2 above and are therefore of particular importance.

3.2 .5 **Evidence**

(a) Circumstances cited in an appeal must be corroborated by independent documentary evidence. Submissions must therefore include all the evidence which the student wishes to submit for the appeal, including written statements from others where appropriate, any other appropriate documentation, and full factual details (names, dates, etc). It is especially important that written submissions are complete and unambiguous, even if the student wishes to attend the hearing in person, as the written case is the sole evidence on which the case will be judged by the *Prima Facie* Panel (see also 1.5.2 and 3.2.5(e)). Further, if there is a hearing and the student does not attend, for whatever reason, there will be no opportunity for the Primary Appeals Committee to seek clarification on points raised in the submission and therefore the written case is the sole evidence on which the case will be judged (see also 1.5.2 and 3.2.5(e)).

(b) If medical grounds are adduced, signed medical certificates or supporting statements must be submitted either by the student or by the medical practitioner at the student's request. It is the student's responsibility to provide all supporting evidence.

(c) If evidence relates to a third party it is the student's responsibility to obtain the necessary consent for the disclosure of relevant information.

(d) Where evidence is provided in a foreign language it is the student's responsibility to have it independently translated before submission.

(e) The student will not be permitted to introduce further new material at an appeal hearing unless it was not known to the student when the original appeal was submitted, in which case the Chairperson may use their discretion to admit the information, to rule it irrelevant or, if necessary, defer the hearing.

3.2 .6 **Indicating intention to attend a Primary Appeals Committee**

(a) ***The student's appeal submission must indicate whether they intend to appear in person if their case is referred to a Primary Appeal Committee hearing, whether they will be accompanied and if so by whom. A student who is unable to attend may nominate another person, who shall be a registered student or member of the staff of the University or Sabbatical Officer from the Guild of Students, to attend the hearing in their place.***

3.2 .7 **Submission deadlines**

(a) The submission must be made by the prescribed date. Late submissions will not be accepted unless proof of postage can be provided, or a receipt produced if hand delivered, in both cases indicating that the submission was posted or hand delivered before the submission deadline. Deadlines will only be waived in very exceptional circumstances at the discretion of the Student Conduct and Appeals section.

3.2 .8 **Acknowledgement of submissions**

(a) Submissions will be acknowledged only if the student encloses a stamped, addressed postcard or envelope with the submission or obtains a receipt from the Academic and Student Administration counter if they are hand delivering their submission. It is the student's responsibility to obtain this receipt.

3.3 Principal academic unit Response

3.3 .1 In all cases, the principal academic unit concerned is required to provide written comments in response to the student's submission. When responding to appeals principal academic units must follow the University guidelines as published on the University website.

3.3 .2 Principal academic units may opt either to oppose or support an appeal. If the appeal is opposed, it will then be considered by the *Prima Facie* Panel which will

determine whether the student has established grounds for an appeal before a case can proceed to a Primary Appeals Committee. If the principal academic unit chooses to support the appeal there will not be a full hearing and the remedy proposed by the principal academic unit shall be applied subject to the remedy being within University and Programme Regulations and ratification of the decision by the *Prima Facie* Panel.

3.3 .3 Principal academic units may support an appeal but propose alternative remedies to those sought by the student. If the student does not accept the alternative remedy the appeal will be processed as an opposed appeal.

3.3 .4 Principal academic units may attach conditions to their support (see 1.4).

3.3 .5 Principal academic units will be invited to identify any academic quality or wider issues raised by an appeal submission.

3.3 .6 A copy of the principal academic unit response will be sent to the student. If the appeal is referred to a Primary Appeals Committee the response will be sent with the papers for the hearing so as to reach the student, where possible, at least 24 hours in advance of the hearing. Where an appeal is not referred to a Primary Appeal Committee the response will be sent with the notification of the outcome of the appeal.

3.4 Prima Facie Panel

3.4 .1 The *Prima Facie* Panel shall consider all Primary Appeal submissions.

3.4 .2 The membership of the *Prima Facie* Panel shall be as described in section 3.1 above.

3.4 .3 The *Prima Facie* Panel does not act as a Primary Appeals Committee and will not hear individual cases so neither the student, nor the principal academic unit is entitled to attend.

3.4 .4 The *Prima Facie* Panel will initially consider a synopsis of the case produced using the information entered in the summary sections of the student's submission and principal academic unit response. The full file for each case will be available for consultation at the Panel's discretion.

3.4 .5 The *Prima Facie* Panel shall base its deliberations on the information submitted. It is therefore the student's responsibility to provide all of the information to support their appeal by the prescribed deadline; this includes all independent third party evidence. It is the student's responsibility to summarise accurately their case in accordance with the guidance available on the University website.

3.4 .6 Where the principal academic unit has indicated that it opposes an appeal, the *Prima Facie* Panel will determine whether a student has established grounds for an appeal (in accordance with section 2 above). The Prima Facie Panel may:

(a) Determine that the student has established a *prima facie* case or that the case warrants further investigation and refer the appeal for a full hearing by a Primary Appeals Committee. In referring an appeal to the Primary Appeal Committee the *Prima Facie* Panel will make no judgement on the

likely outcome of an appeal;

(b) Decide that the student has failed to establish a *prima facie* case in accordance with the grounds for an appeal (sub-section 2.2 above) and reject the appeal, giving reasons, and confirm the original decision against which appeal is being made.

3.4 .7 Where the principal academic unit has indicated that it supports the appeal, the *Prima Facie* panel will review the case to ensure that the University guidelines have been followed (with particular reference to section 2). The *Prima Facie* Panel may:

(a) Ratify the principal academic unit's decision to support the appeal such that the proposed remedy is applied;

(b) Reject the appeal, giving reasons, and confirm the original decision against which appeal is being made on the basis that University guidelines have not been followed;

(c) Where the *Prima Facie* Panel believes that the case warrants further investigation the case to be referred to a full hearing by a Primary Appeal Committee.

(d) Seek further clarification from the principal academic unit before making a final decision.

3.4 .8 Where the *Prima Facie* Panel ratifies an appeal that is supported by the principal academic unit, the student will receive notification of the remedy to be applied and any conditions attached.

3.4 .9 Where the *Prima Facie* Panel refers an appeal to a full hearing by a Primary Appeals Committee reasonable notice will be given in writing of the date and time of the hearing together with the membership of the Committee.

3.4 .10 Where the *Prima Facie* Panel rejects an appeal, the student will be informed of the decision in writing and of the right of a review by the Senate Review Panel. It will be made clear that such appeal may be made only where grounds of procedural irregularity in the conduct of the primary appeal stage are alleged and where new material evidence has come to light. Any application for Senate Review must be submitted within 15 working days of notification of the result of the initial appeal, following the Code of Practice on Senate Review Procedure.

3.4 .11 The *Prima Facie* Panel will be invited to identify any academic quality or wider issues raised by appeal submissions.

3.5 Primary Appeal Committee Attendance

3.5 .1 There is no entitlement to legal representation at the hearing. All correspondence will be sent to the student themself. Even if the address provided is that of a friend or solicitor, no separate correspondence will be entered into with that (or any other) third party.

3.5 .2 A student who elects to appear in person may if they so wish be accompanied by another person, acting as a friend, who shall be a registered student or a

member of the staff of the University or Sabbatical Officer from the Guild of Students of the University of Birmingham. The role of this friend shall be to provide support to the student and to make any final statement in accordance with 3.6.2(g) below. The student shall be responsible for inviting the friend to attend, and notifying the time and place of the hearing. The friend may present the case on behalf of the student, at the discretion of the Chair of the Primary Appeals Committee, if the student is upset or is finding it difficult to present their case.

3.5 .3 The friend is not permitted to be a witness, and is not permitted to introduce evidence either verbally, or in a written format, unless this is in the form of a character reference if appropriate. If the friend is a member of staff of the University of Birmingham they will not be representing their principal academic unit, or the University in any official capacity at the hearing, they are attending solely as a friend.

3.5 .4 If a student indicates their intention not to attend the hearing or is subsequently unable to do so, they may (under the provisions of clause 3.2.6, above) nominate the friend to attend in their place. The student must inform the friend of this when confirming to them the date and time of the hearing and provide the friend with copies of the papers (as defined in clause 3.3.6). Such attendance and representation shall be subject to the limitation in clause 3.5.1. Notification of the outcome of the appeal will be sent only to the student.

3.5 .5 In all cases, a representative of the principal academic unit concerned will be required to attend the hearing in order to present the principal academic unit's response, to provide any necessary information or advice, to answer questions and respond to any new material which is, exceptionally, permitted to be introduced. Where the student is in attendance, the principal academic unit's representative will not be heard separately from the student, nor the student separately from the principal academic unit's representative, unless, in exceptional circumstances, the Committee considers there is good reason to hear the student separately.

3.5 .6 If the principal academic unit's representative is unavoidably prevented from attending, the Committee may proceed in their absence.

3.5 .7 If the student does not attend the hearing, having declared an intention to do so, the Committee may proceed in their absence, if it is satisfied that the student had been given due notice of the meeting. In this event, the student shall have no grounds for a further appeal, or for seeking a further hearing, solely on the basis of their non-attendance at the earlier hearing.

3.6 Primary Appeals Committee Hearings

3.6 .1 At the start of the hearing, the Chairperson shall summarise the procedure to be adopted and ask the student whether they wish to raise any procedural questions.

3.6 .2 The hearing will follow the following procedure:

(a) The student will be invited to make an initial statement.

(b) The principal academic unit's representative will be invited to comment on the student's statement.

(c) The Committee may question the student.

(d) The Committee may question the principal academic unit's representative.

(e) The student, through the Chair, may question the principal academic unit's representative.

(f) The Committee may request any final clarification on issues raised.

(g) The Chair shall ask the student and his/her friend if they have any point which they further wish to clarify. This should not be in the form of further questions of the principal academic unit's representative.

3.6 .3 No information will be made available to the Committee which is not made available to the student, except, in exceptional circumstances, that which has been specifically declared confidential by a third party (e.g. medical practitioner). The conditions of appointment of internal and external examiners for research students will have drawn attention to the fact that their report, or a summary of it, will be made available to the student in such an appeals procedure.

3.6 .4 The members of the Committee will then proceed, in the absence of all other persons except the Secretary to the Committee, to take a decision on the course of action which is appropriate, within the Regulations and Rules which apply to the programme for which the student is registered.

3.6 .5 Where the *Prima Facie* Panel rejects an appeal, the student will be informed of the decision in writing and of the right of a review by the Senate Review Panel. It will be made clear that such appeal may be made only where grounds of procedural irregularity in the conduct of the primary appeal stage are alleged and where new material evidence has come to light. Any application for Senate Review must be submitted within 15 working days of notification of the result of the initial appeal, following the Code of Practice on Senate Review Procedure.

3.6 .6 Once the Primary Appeals Committee has considered a case and reached a decision, that decision is final as far as the Primary Appeals Committee is concerned, except that the Chairperson of the Committee has discretion to order a new hearing where new evidence comes to light which was not known at the time of the original hearing. If the Chairperson so exercises their discretion, the student and the principal academic unit shall be notified as soon as possible.

4. Undergraduate and Taught Postgraduate Appeals: Guidance to Committees

4.1 The Primary Appeals Committee will:

4.1 .1 Decide whether or not the student has grounds for appeal in accordance with Section 2 of this Code of Practice.

4.1 .2 Decide whether or not the student's appeal should be upheld in full or in part.

4.1 .3 Decide on the consequences, for example, whether the student should be

resitting or repeating a module, repeating the year in whole or in part, etc.

4.1 .4 Make decisions within regulations, not refer matters back to Boards of Examiners for reconsideration, except in the case of degree classifications or other awards.

4.2 The Primary Appeals Committee cannot make academic judgements, i.e. change marks or degree classifications.

4.3 The Primary Appeals Committee is not a Board of Examiners.

4.4 The Primary Appeals Committee, following consideration of a student's appeal, should make decisions using the following broad categories as a guide only. These decisions must be made within University Regulations and Programme Requirements (see subsection 1.3).

4.4 .1 Reject the appeal, giving reasons, and confirm the original decision against which appeal is being made.

4.4 .2 Uphold the appeal and permit student to be re-assessed in specific named module(s), spelling out the form of assessment, for example, sit, resit, repeat, resubmission in the case of assignments or revise and resubmit dissertation. In all cases, clear deadlines for the re-assessment should be agreed by the Chair, in consultation with the principal academic unit.

4.4 .3 Proceed with low credit: to be used after the Supplementary Examinations only, when the student has used up all their attempts to gain credit. The student must have accrued the minimum number of credits required for progression to the next stage of their programme of study in accordance with the relevant regulations.

4.4 .4 Refer the matter back to the Board of Examiners (in cases of appeals against degree classifications or other awards).

4.5 The Primary Appeals Committee may attach conditions to any of these decisions (see subsection 1.4).

4.6 The Primary Appeals Committee will be invited to identify any academic quality or wider issues raised by each case.

5. Research Degree Appeals: Guidance to Committees

5.1 The following is intended to provide more detailed guidance for Primary Appeals Committees on the potential outcomes of appeals by research students. In the case of students required to withdraw or transfer programme prior to examination, the Primary Appeal Committee may:

5.1 .1 Reject the appeal, giving reasons, and confirm the decision of the original decision against which appeal is being made.

5.1 .2 Refer the matter back to the college for reconsideration of the case in light of the new evidence presented at appeal. The University Research Progress and Awards Sub Panel will ratify the new decision of the college.

5.2 In the case of students whose theses have been examined, the Primary Appeals

Committee may:

5.2 .1 Reject the appeal, giving reasons, and confirm the decision of the examiners.

5.2 .2 Refer the matter back to the examiners (usually in cases of procedural irregularity/unknown circumstances) and request, giving reasons, that the examiners reconsider their decision in the light of the Committee's findings.

5.2 .3 Require the student to revise and resubmit for re-examination by the same or other examiners within a specified period of time (re-registration and payment of fees, change of supervisor may also be specified).

5.2 .4 Set the original examination aside and direct that new examiners are appointed for a new examination. In these cases:

(a) the new examiners shall not be fewer in number than the original examiners and shall include at least one external examiner;

(b) no information arising from the first examination or the appeal shall be given to the new examiners, except that it is a new examination after an appeal;

(c) the normal examination procedure of independent reports, oral, joint/individual reports, final recommendation shall be followed;

(d) the new reports will only be referred to the University Research Progress and Awards Sub-Panel for consideration in the event of a disagreement between examiners, when the normal procedures shall apply.

5.3 If the Primary Appeals Committee feels that any of these recommendations is inappropriate, the Chair should consult the Academic and Student Administration division.

5.4 The Primary Appeals Committee may attach conditions to any of these decisions (see subsection 1.4).

5.5 The Primary Appeals Committee will be invited to identify any academic quality or wider issues raised by the case.