

## FITNESS TO STUDY APPEAL STAGE

### GUIDE FOR STUDENTS Your Questions Answered

Please note that the Fitness to Study process is administered by your School, and this process should only be followed if you wish appeal the decision of the Level 3 Fitness to Study Panel.

This document is a walk-through process to assist you in understanding the Appeal process of the University's Fitness to Study Policy and Procedure ('Policy and Procedure'). **You are strongly encouraged to read this guide, together with the Policy and Procedure, prior to completing your Appeal Application Form.**

A copy of the Policy and Procedure can be located at [www.tees.ac.uk/studentregulations](http://www.tees.ac.uk/studentregulations), and further information on submitting your Appeal to the Office of Student Complaints, Appeals and Regulations (OSCAR) can be found in this guide.

#### 1. What is a Fitness to Study Appeal?

When submitting an Appeal you are requesting a Fitness to Study Appeal Committee (Appeal Committee) to review the decision of the Level 3 Fitness to Study Panel and/or Vice-Chancellor (Level 3 Panel and/or Vice-Chancellor).

There is a flowchart at the back of this guide to assist you with this process.

#### 2. Where can I get advice?

**OSCAR** can assist you with the process:

E: [oscar@tees.ac.uk](mailto:oscar@tees.ac.uk)

W: [www.tees.ac.uk/oscar](http://www.tees.ac.uk/oscar)

The **Students' Union** can provide you with free, independent advice and guidance on your individual circumstances.

E: [suss@tees-su.org.uk](mailto:suss@tees-su.org.uk)

For additional support you can contact the University's **Student and Library Services** who offer a wide range of services, including welfare advice, counselling and disability services:

E: [studentlife@tees.ac.uk](mailto:studentlife@tees.ac.uk)

### 3. Important questions to ask yourself before submitting an Appeal:

#### 3.1 Has the decision of the Level 3 Panel and/or Vice-Chancellor been published?

You will **not** be able to submit an Appeal until the Level 3 Panel and/or Vice-Chancellor has published their decision. You should receive the decision in writing and it should include details of the outcome(s) imposed.

If you have not yet received the decision please contact, in the first instance, the Secretary of the Level 3 Panel.

#### 3.2 Am I within the timescales to make an Appeal?

Your Appeal must be submitted to OSCAR within **10 days** of the publication of the decision of the Level 3 Panel and/or Vice-Chancellor.

#### 3.3 What if I am outside the 10 day deadline?

An Appeal received after the 10 day deadline can only be considered under **very** exceptional circumstances, and only if submitted within **three months** after the publication of the Level 3 Panel's and/or Vice-Chancellor's decision.

If you submit an Appeal outside of these timescales, you must enclose with your Application a separate written statement explaining why it has been submitted late. The University will then consider your written statement and determine whether to accept your case for consideration.

#### 3.4 What information must I include?

You **must** identify the grounds and reasons for your Appeal.

If the relevant information is not provided, OSCAR will return your Appeal to you asking you to provide the necessary information, and this should be returned within **5 days**. If the required information is not received, your Appeal may be rejected.

It is also important that you include any relevant documentation to support your case, and list the documentation you are including under the relevant ground. Where the submission of supporting documentary evidence is not possible at the time of the submission of your Appeal, due to circumstances outside your control, your Appeal should be submitted prior to the deadline date with a clear statement that the evidence will follow, normally within 20 days. If no subsequent supporting evidence is received, OSCAR will process your Appeal based on the available documentation.

You are strongly advised to keep a copy of your Appeal and any supporting documentation. Documents submitted as part of your Appeal will **not** normally be returned. Where photocopies of documents are submitted, you may be required to provide OSCAR with sight of the original documents in order to verify their authenticity. If evidence is provided in a language other than English, it is your responsibility to have it independently translated.

### **3.5 Do I fall within the grounds for an Appeal?**

The ground(s) under which you can request an Appeal are:

- i) That the decision of the Level 3 Panel and/or Vice-Chancellor was inconsistent with and unsupported by evidence;  
  
and/or
- ii) That there was a material procedural irregularity by the Level Panel which has prejudiced your case;  
  
and/or
- iii) That additional evidence has come to light since the decision of the Level 3 Panel and/or Vice-Chancellor, which could not reasonably have been expected to have been produced at the time of the consideration of case by the Level 3 Panel.

Your Appeal should include a clear statement explaining why you believe the ground(s) to be relevant to your case.

**An Appeal will not be considered under any other grounds.**

### **3.6 What are NOT acceptable grounds for an Appeal?**

Your Appeal will only be considered on the ground(s) set out in paragraph 3.5 above.

### **3.7 Why could my Appeal be rejected?**

Examples include, but are not limited to, the following:

- The Level 3 Panel and/or Vice-Chancellor has not published their decision;
- Your Appeal was not submitted within the timescales stated in the Fitness to Study Policy and Procedure and was deemed out of time;
- Your Appeal was incomplete, frivolous, or vexatious;
- It was felt that your Appeal was unsubstantiated under the grounds set out in paragraph 3.5 above.

## **4. What if I am unsure whether my case falls within the Appeal Stage?**

You should contact an Adviser from your Students' Union or OSCAR, who will be able to assist you.

## 5. How do I complete the Appeal?

Before completing your Application Form we recommend that you seek advice from an Adviser in your Students' Union. A copy of the Application Form can be located at [www.tees.ac.uk/studentregulations](http://www.tees.ac.uk/studentregulations). Due to current working practices, your completed application form should be submitted to OSCAR via email.

The Application Form is divided into sections and it is important that you complete all relevant sections, as any omissions may result in a delay with your Appeal being processed.

The sections identified below **must** be completed:

**Section 1: Personal details**

**Section 2: Course information**

**Section 3: Fitness to Study information**

**Section 4: Your preferred outcome**

**Section 5: The involvement of an Adviser**

As mentioned above, you are encouraged to seek advice from your Students' Union on completing your Appeal.

*It is important that you understand that by ticking the box you are giving your consent for OSCAR to communicate with your Adviser regarding your case.*

**Section 6: Grounds for Appeal**

It is essential that you identify the ground(s) on which you wish to apply, answer all related questions, and provide documentary evidence to support your Appeal.

**Section 7: Privacy Notice and Declaration**

It is important you understand that by signing the Application Form, or emailing it to [oscar@tees.ac.uk](mailto:oscar@tees.ac.uk), you are verifying that the information contained therein, together with any accompanying documentation is true. You are also thereby agreeing to OSCAR processing your personal data for the purposes of logging, coordinating, progressing and facilitating resolution of the matter(s). OSCAR will only process your personal data (which may include requesting or sharing personal data with staff and or Panels within Schools/Departments/ Collaborative Partners) for these express purposes. OSCAR will obtain your express consent to process any special category data which includes e.g. health records. Any personal data, including special category data, will only be processed to the extent necessary in order to properly administer your case, and appropriate safeguards are in place to ensure security of your personal data.

### **Third Party Data:**

Please note that third party data will normally only be accepted with the written consent of the person concerned. If you plan to submit third party data without the consent of the individual, please ensure that it is anonymised (for example, names and any other personal data is redacted). Anonymising personal data may detract from the use or purpose of the information provided and consent is therefore preferable to ensure that the matter is properly considered. The University may refuse to accept documents, which include third party data without consent and which have not been anonymised and you may be asked to resubmit such evidence once consent is obtained or anonymisation has taken place. Where non-anonymised third party personal data has been accepted in error, the University reserves the right to redact the personal data. Processing of personal data in this way will be under the lawful basis of legitimate interest and in the public interest.

### **Disability or Specific Learning Disability:**

Please ensure that you have identified on your Application Form whether you have a disability or specific learning difficulty and require any adjustments in order that the University can provide you with appropriate support to access this process. If you have difficulty submitting your Application Form via email, wish for it in a different format, or you wish to discuss your requirements please contact OSCAR.

### **Please check before submitting your Appeal that:**

- you are submitting your Appeal within **10 days** of the publication of the Level 3 Panel's and/or Vice-Chancellor's decision;
- you have completed all the relevant fields on this Application Form;
- you have identified whether you have any specific requirements relating to a disability or specific learning difficulty (should you wish to discuss your requirements please contact OSCAR);
- you have clearly labelled any accompanying sheets;
- where you have submitted Personal Data regarding a third party you have obtained written consent from that individual to share their Personal Data and have provided this with your Application, or you have anonymised the Personal Data;
- you have included all relevant documentary evidence to support your Appeal;
- you have read and understood the Fitness to Study Policy and Procedure;
- you have taken a copy of your Appeal for your own records.

## **6. What if I would like somebody else to act on my behalf?**

It is not permissible for the University to communicate with external third parties regarding your case without your written consent. This includes a representative from your Students' Union, legal representative, parent, guardian or spouse. Therefore, if you wish the University to discuss your case with a third party, you will need to confirm this in your Appeal.

## **7. How do I submit my completed Appeal?**

Email: [oscar@tees.ac.uk](mailto:oscar@tees.ac.uk)

## **8. How long will it take to process my Appeal?**

The length of time depends on the complexity of your case. However, OSCAR will ensure that your Appeal is processed as quickly as possible.

## 9. What should I expect following submission of my Appeal?

You will receive written acknowledgement of your Appeal from OSCAR.

OSCAR will conduct an initial screening of your Appeal to assess whether it complies with the criteria set out in paragraph 14.2 of the Policy and Procedure. If your Appeal does not meet the criteria stipulated in the Policy and Procedure or is considered incomplete, frivolous or vexatious, OSCAR will forward your Appeal to the University Secretary who may dismiss your Appeal.

If your Appeal complies with the relevant criteria, OSCAR will request that the Chair of the Level 3 Panel provides a written report ('Chair's Report') to OSCAR within 14 days. OSCAR will then forward your Appeal and the Chair's Report to the University Secretary for consideration.

The University Secretary will decide whether:

- The Appeal is incomplete, out of time, misconceived, frivolous or vexatious, and should be dismissed.

If this is the case then the University Secretary will write to you with their decision, and provide you with a 'Completion of Procedures' letter.

- To request an Appeal Committee be convened to consider the case.

OSCAR will write to you and the Chair of the Level 3 Panel requesting your attendance at an Appeal Committee Hearing.

## 10. What happens at an Appeal Committee Hearing?

You will be invited to attend an Appeal Committee Hearing and provided with a copy of the papers prior to the meeting (including your Appeal, Chair's Report, and any other relevant documentation).

You may bring one friend with you and this may be a representative from your Students' Union. Please note it will be your responsibility to liaise directly with your friend about your case and make necessary arrangements for attendance. If you are intending to bring a friend with you to the Hearing you should notify OSCAR.

If you have given OSCAR permission to liaise with an adviser in the Students' Union they will also be notified of the date and time of the hearing.

The Panel will consist of three members who have had no prior involvement with you, or previous participation in the case under consideration. The Appeal Committee will have a Clerk, who will attend in an advisory capacity, and a Secretary.

The Chair of the Level 3 Panel will also be invited to attend and may be accompanied by a friend.

During the Hearing:

- The Chair of the Appeal Committee will outline the procedure of the meeting to all parties;
- The Chair of the Appeal Committee will ask you and/or your friend to present your Appeal;
- Members of the Appeal Committee may ask questions of you and/or your friend;
- The Chair of the relevant Stage 3 Panel may ask you and/or friend for clarification on any representations made;
- The Chair of the Appeal Committee will ask the Chair of the relevant Stage 3 Panel to respond to the Appeal;
- Members of the Appeal Committee may ask questions of the Chair of the relevant Stage 3 Panel;
- You may ask for clarification on any representations made by the Chair of the relevant Stage 3 Panel;
- Each party will be given the opportunity to sum up their case;
- The Chair of the Appeal Committee will ask you, your friend, and the Chair of the relevant Stage 3 Panel to leave the meeting;
- The Appeal Committee will consider the evidence in private and reach a decision.

#### **11. What happens following an Appeal Committee Hearing?**

Following consideration of the available evidence relating to the case, the Appeal Committee may reach one of the following decisions:

- Dismiss the Appeal;

**or**

- Reverse the decision of the Level 3 Fitness to Study Panel and/or Vice-Chancellor and substitute its own decision from one or more of the outcomes outlined in the Policy and Procedure;

The Chair of the Appeal Committee will notify you, in writing, of the Panel's decision, normally within **14 days**.

#### **13. How will I know when the process is complete?**

At the conclusion of the University's internal process you will normally be issued with a 'Completion of Procedures' letter concluding internal proceedings in the manner prescribed by the Office of the Independent Adjudicator for Higher Education (OIA).

#### **14. What is the Office of the Independent Adjudicator (OIA)?**

The OIA operates an independent student complaints scheme. It will only consider cases that have completed the University's internal procedures.

More information on its rules can be found at [www.oiahe.org.uk](http://www.oiahe.org.uk).

# FITNESS TO STUDY APPEAL FLOWCHART

