

Student Dispute Resolution Policy and Procedure

Purpose

1. The College recognises that, from time to time, students and staff of the College will disagree on an appropriate response to a particular issue, and will be unable to resolve this dispute by informal means.
2. This Policy outlines how the College will seek to resolve such disputes. It will outline the rights and responsibilities of parties in a dispute, and will refer to alternative dispute resolution methods where appropriate.
3. It is not possible to be prescriptive about the outcomes of individual complaints. Where a complaint is found, via any formal mechanism, to be justified or partially justified, then the officer(s) charged with investigating the complaint may make recommendations to the appropriate officer or body for resolution; it will be for this officer or body to confirm the steps to be taken to resolve the complaint. Possible outcomes from a complaint may include, but are not limited to, an apology, a practical resolution such as restoration or improvement of inadequate facilities, a commitment to prevent / avoid recurrence of a problem, referral of the issue to the appropriate sub-board or board of examiners to consider in accordance with the College's Mitigating Circumstances policies, transfer to another course or partial or full reimbursement of fees.
4. This Policy also recognises that there is a responsibility on all members of the College community to be reasonable in their expectations and to respect the right of others to dignity at their place of work and study.

Other Procedures and Options

5. The College has a number of procedures for dealing with specific issues. The following procedures take precedence over this Student Dispute Resolution Policy & Procedure:

Code of Student Discipline

(<http://www.bbk.ac.uk/mybirkbeck/services/rules/discipline.pdf>)

Dignity at Work & Study

(http://www.bbk.ac.uk/hr/policies_services/Dignity_at_work_and_study/policy)

Procedure for Appeals Against Decisions of Boards of Examiners

(<http://www.bbk.ac.uk/mybirkbeck/services/rules/AppealsAgainstExamBoardDecisions.pdf>)

Code of Practice for Postgraduate Training and Research for the MPhil and PhD Degrees

(<http://www.bbk.ac.uk/gev/strategies/pgcode>)

College Policy & Procedure for the Termination of a Student's Registration

(<http://www.bbk.ac.uk/mybirkbeck/services/rules/termination.pdf>)

Public Interest Disclosure (“whistleblowing”): College Policy
(http://www.bbk.ac.uk/hr/policies_services/policies_az/whistleblowing)

Admissions Policy (link to follow)

6. This Student Dispute Resolution Policy & Procedure cannot be used as an alternative means of appeal against decisions made under these procedures.
7. Only registered students¹ of the College are normally entitled to pursue a complaint under this Policy & Procedure. The College will not normally enact this procedure where a complainant is in debt to the College.
8. If a student who is pursuing, or who is the subject of, an investigation under an alternative procedure, then any complaint made under this Student Dispute Resolution Policy & Procedure will be dealt with after the preceding investigation has been concluded.
9. Where a complainant resorts to court action in relation to a complaint then the College will normally hold procedures undertaken under this Procedure in abeyance until such time as this court action is completed.
10. In any case of doubt the matter shall be referred to the Academic Registrar for a ruling.

Rights and Responsibilities

11. Students have the right to expect members of staff of the College to act in accordance with published service standards, with published College policies and with the terms and conditions of their admission to programmes offered by the College. College staff have the right to expect complainants to be reasonable in their requests for action and to expect that complaints are made courteously and with respect for the right for to dignity in their place of work or study.
12. Where a student of the College considers that an individual or department has contravened these then they have a responsibility for ensuring that any complaint is clear both in specifying what the problem is and what the complainant is seeking as a remedy.
13. Complainants have a responsibility for ensuring that they make reasonable efforts to resolve disputes informally before submitting a formal complaint.
14. Complainants have a responsibility for ensuring that any complaint is submitted in a timely fashion. The College will not normally consider complaints submitted more than six weeks after the events in question unless there is, in the judgement of the Academic Registrar, valid reason for the delay in submitting a formal complaint.
15. Complainants have a responsibility for making reasonable efforts to ensure that any complaint is addressed to the appropriate officer; guidance on officers and their areas of responsibility is attached as Appendix One.

¹ Students who have left the College may submit complaints in accordance with this policy within three months of leaving the College

16. Staff responsible for dealing with complaints have a responsibility for ensuring that responses are made in a timely fashion. Responses to any complaint, whether informal or formal, should be made, normally in writing, by the person to whom the complaint is addressed within 10 College working days of their having received the complaint. Where this is not possible, an interim response should be made outlining the reason for the delay and a date by which the complainant should expect a full response.
17. All staff involved in complaints including members of the College Complaints Panels, representatives, witnesses and officers of the College are required to maintain confidentiality regarding complaints except insofar as it is necessary to divulge information in order to take action to remedy the complaint.

College Dean

18. The College Dean may act as a confidential and impartial adviser for students in matters relating to their welfare in the College. The Dean may be consulted for advice on the proper procedures to be followed when problems arise and may assist when appropriate in resolving complaints and disputes.

Mediation

19. As an alternative to raising a complaint through the formal procedure, the complainant may ask that the matter is dealt with through mediation. In addition, either party in a dispute can, at any stage of the formal procedure, request that the matter be dealt with via mediation. Mediation is voluntary and will only take place with the agreement of all parties.
20. Where mediation is agreed once the formal procedure has been started the procedure will be adjourned whilst the mediation takes place. In the event that no mutually acceptable solution is reached through mediation, the procedure will be reconvened at the point of adjournment.
21. Mediation will take the form of a relatively informal meeting, or series of meetings, involving the individuals concerned. The meeting(s) may be initially held with the parties separately, dependent upon the nature of the complaint. The mediation is conducted by a trained mediator appointed by the College, normally from a member of College staff not connected with the complaint. The role of the mediator will be to help the parties in dispute to come to an agreement. The mediator will be independent and neutral to the dispute and will be there to facilitate the parties towards a mutually acceptable agreement.
22. If the complaint is resolved through mediation, the mediator will assist the parties to draft a written agreement that will be signed by both parties as acceptance of its terms.

Academic Judgement

23. Academic judgement can be defined as a judgement where only the opinion of an academic expert will suffice. The College reserves the right to make academic judgements, including judgements about assessment, degree classification, research methodology or course content / outcomes and complaints about the academic judgement of the College or its officers will normally be rejected.

Using this Procedure

24. A complaint that any officer of the College has not acted in accordance with: published service standards: with published College policies: with the terms and conditions of their admission to programmes offered by the College or in any other way that may reasonably be considered to be unfair or unreasonable, may be pursued by a student in accordance with this Policy & Procedure.
25. Any complaint made under this Policy & Procedure must be made by the student directly affected by the act or omission in question. The College will not consider complaints made by third parties on behalf of students.

Informal Stage

26. Where a student considers that they have not received the service to which they are entitled then the first step is to attempt to resolve informally with the member of staff immediately responsible for the act or omission that the student considers to be the subject of the disagreement.
27. The complainant should make a clear statement in writing or via e-mail, outlining to the relevant staff member what the issues are, and what the suggested resolution is. The student should not delay unduly in raising the matter with the person responsible.
28. Where the student feels unable to approach that person, the student should without delay refer the complaint and its suggested resolution as follows:
 - (a) Where the complaint relates to a teaching or departmental / school-related problem:
 - to their personal tutor (where relevant);
 - Or to their Programme Director;
 - Or to any other member of staff of the department / school designated for the purpose.
 - (b) Where the complaint relates to any other aspect of the College's services or facilities other than a teaching or department / school-related problem a student should without delay refer the complaint to a senior member of staff of the service concerned.
29. The member of staff should respond, in writing or via email, within ten working days, either to confirm that the requested resolution will be put in place, or with an explanation for the reason that the action cannot be undertaken, and details of any proposed alternative resolution.
30. Students are advised to keep notes made at the time or as soon as possible of:
 - The date and nature of any incident giving rise to a complaint;
 - The date(s) on which s/he took steps to raise the complaint and seek its resolution;
 - The date(s) and content of any responses given.

31. If, having pursued the matter informally, the student believes that her/his complaint has not been appropriately, fairly or reasonably addressed the student may then follow the formal stage below.

Formal Stage

32. The objective of the formal stage of this Policy and Procedure is to help reach a prompt resolution of the complaint in cases where informal steps have failed.
33. Any formal complaint should normally be submitted to the Academic Services Unit² of Registry Services.
34. If the complaint is against the Academic Services unit then the complaint should be submitted direct to the Academic Registrar. Where the complaint is against the Academic Registrar then the complaint should be submitted to the College Secretary.
35. Any formal complaint should contain a brief statement outlining the issues that are the subject of dispute, the preferred resolution of the complainant, and the steps that the complainant has taken to resolve the dispute informally.
36. If a member of staff or a student is the subject of a complaint, then that person will be given the opportunity to make representations at every stage of the formal complaint, and to attend and give evidence to any formal panel hearing.
37. The Academic Registrar, or her/his nominee, will then consider, normally within 10 working days³, whether to refer the complaint to the Appropriate Officer (see paragraph 39), or to refer the complaint back to the complainant. Complaints may be referred back where, in the judgement of the Academic Registrar:
 - (a) The complainant has not taken reasonable steps to resolve the matter informally;
 - (b) The complainant has not taken reasonable steps to ensure that the substance of the complaint can be understood by the subject;
 - (c) The complaint is a subjective judgement on practice rather than a breach of College policy or regulation;
 - (d) The remedy proposed by the Complainant is inappropriate and / or unrealistic;
 - (e) The complaint concerns an academic judgement of the College (see paragraph 23)
38. Where, in the judgement of the Academic Registrar a complaint is trivial or vexatious, the complaint will be rejected and a Completion of Procedures letter issued.

² Complaints should normally be submitted to Trevor Pearce, email t.pearce@bbk.ac.uk

³ However, complex cases will unavoidably take longer to investigate with due care and thoroughness; where a complaint will take longer than 10 working days to assess then the Academic Registrar or her/his nominee will write within 10 working days to inform the complainant of the delay and a revised deadline by which they can expect a response.

A frivolous or vexatious complaint can be characterised in a number of ways including, but not limited to, the following:

- Complaints which are obsessive, persistent, harassing, prolific, repetitious;
- Insistence upon pursuing unmeritorious complaints and/or unrealistic outcomes beyond all reason;
- Insistence upon pursuing meritorious complaints in an unreasonable manner;
- Complaints which are designed to cause disruption or annoyance;
- Demands for redress which lack any serious purpose or value.

The College undertakes that any student seeking to use this procedure will not be treated less favourably in her/his subsequent academic career, or College life, as a result of action taken to pursue a complaint. However, where the judgement of the Academic Registrar is that a complaint is trivial or vexatious then the Academic Registrar may invoke disciplinary proceedings, under the Code of Student Discipline, against the complainant.

39. Where the Academic Registrar does not refer the complaint back to the complainant, the complaint will then be referred to the "Appropriate Officer". This will normally be the Executive Dean for the appropriate School or the Head of the professional service that is the subject of the complaint. The Appropriate Officer may delegate responsibility for making any response to an appropriately senior member of staff within their School or department. If the complaint is against the Head of a service then the complaint will normally be referred to the College Secretary.
40. The Appropriate Officer should then co-ordinate a response on behalf of that unit. The response should include details of what the unit has done to resolve the issue, and (where appropriate) an explanation for not having undertaken the actions requested by the complainant
41. The Appropriate Officer should normally respond within ten working days of their receipt of the complaint; if this is not possible then they should advise within ten working days when a response will be produced by. The Appropriate Officer may at her / his discretion request a meeting with the student to discuss details of the complaint.
42. Where a student considers the response of the Appropriate Officer to be inadequate the student may, within ten working days, refer the matter back to the Academic Registrar.
43. The Academic Registrar will then decide whether to reject the complaint or whether further steps should be taken towards resolution. Reasons will be given for any rejection. The Academic Registrar will notify the student of her/his decision, normally within ten working days.
44. Reasons for rejection include, but are not limited to, the following:
 - The complainant has not established a *prima facie* case that they have been treated unfairly, unreasonably, or in a manner inconsistent with College policy or practice;

- The complainant has not provided any substantive evidence to support their complaint that might reasonably be expected;
 - The complaint concerns an academic judgement of the College (see paragraph 22)
 - The remedy proposed by the Complainant is inappropriate and / or unrealistic;
 - The complaint is trivial or vexatious; Where trivial or vexatious complaints are received the Academic Registrar will consider whether s/he considers it appropriate to invoke the Code of Student Discipline against the complainant
45. The Academic Registrar may ask for further information, from the complainant or Appropriate Officer, before deciding on any further steps to be taken.
46. Further steps that may be considered at this stage include, but are not limited to; referral to a more senior officer; a request for both parties to undertake mediation; commissioning of an independent third party to review the matter and make recommendations; or the convening of a College Complaints Panel to consider the matter.

College Complaints Panel

47. Members of a College Complaints Panel will be independent of the school, programme or service that may directly concerned with the complaint.
48. The College Complaints Panel will consist of:
- i. One member of academic staff of the College, employed at Senior Lecturer or Reader level or above, as the Chair;
 - ii. One other member of academic staff⁴,
 - iii. A representative of the student body, normally nominated by the Executive Committee of Birkbeck College Students' Union.

A secretary, who is unconnected with the complaint, will make and keep a record of the proceedings; the secretary is not part of the Panel.

Meeting of a College Complaints Panel

49. The College will convene regular meetings of College Complaints Panels to consider any outstanding complaints; any complaint will normally be referred to the next available meeting of this Panel.

Procedure of a College Complaints Panel

50. The student whose complaint is to be heard will be entitled to be present at the meeting of the Panel to give evidence and otherwise be heard and to have access to all relevant documents to be submitted to the Panel. The student may, where appropriate and with the permission of the Chair, call witnesses. The student is entitled to be accompanied by a person of her/his choice (the "Companion") who is a member of the College and who will be entitled to participate in the proceedings. The student will be entitled to submit written evidence which will be considered by the Panel. Any such written

⁴ This would not normally include any research-only staff or sessional lecturers

evidence must be submitted to the Academic Services unit of the Registry by 1pm on the fourth working day preceding the meeting of the Panel.

51. The order and conduct of business will be determined by the Panel.
52. The Panel will be authorised to consult and/or invite any member of the College who in the Panel's opinion may contribute evidence or information to clarify or resolve the matter of the complaint.
53. The Panel will be required to reach a decision on whether the complaint is upheld in whole or in part or not upheld and will produce a report, normally within 10 working days of any hearing, confirming its decision and giving details and reasons.
54. In cases where the Panel upholds a complaint in whole or in part it may provide recommendations for any action to be taken and any remedy to be applied. Recommendations will be referred to the Master for consideration.
55. Where a Panel recommends that a compensatory or other financial award to a complainant may be appropriate it will not recommend an amount, but will recommend that the Academic Registrar consult with appropriate officers agree an appropriate outcome with the Master.
56. A College Complaints Panel is not empowered to take disciplinary action against any individual. Panels may recommend that disciplinary action be considered; such recommendations will be referred to the Head of the relevant service (staff) or the Academic Registrar (student), to pursue if appropriate in accordance with relevant College policies and procedures.
57. In cases where a Panel does not uphold a complaint it may nevertheless recommend any steps that should be taken by the College in the light of any evidence received and considered. A response to any recommendation should be submitted to the Academic Registrar by the appropriate officer within one month of notification.
58. The student will be informed by letter of the College Complaints Panel's recommendations and will receive a copy of the Panel's report.
59. The decision of the College Complaints Panel will be final.

Role of the Companion

Delegation and substitution

60. The Academic Registrar or Master may delegate her / his powers and duties under this Code to another officer of the College.
61. The Appropriate Officer may delegate her / his powers and duties under this Code to an appropriately qualified senior colleague.
62. Where the Academic Registrar is the Head of the relevant service any request for a formal hearing by a College Complaints Panel may be referred

to the College Secretary who will nominate a person to act in place of the Academic Registrar.

Reporting

63. The Academic Services will record each formal complaint made to it, and produce a report for consideration at the Academic Board, or its designated Committee, on an annual basis.

Office of the Independent Adjudicator for Higher Education (OIAHE)

64. Students who have exhausted the College's internal procedures for complaints or appeals may bring their complaint to the Office of the Independent Adjudicator for Higher Education (OIAHE). The OIAHE's website (at www.oiahe.org.uk) contains full information, and the OIAHE can also be contacted at: OIA, Fifth Floor, Thames Tower, Station Road, Reading, RG1 1LX, tel: 0118 959 9813, email: enquiries@oiahe.org.uk. Anyone wishing to pursue a complaint through the OIAHE must complete a special Scheme Application Form, downloadable copies of which are available from the website.

Academic Board
June 2011