



University of Wales
Prifysgol Cymru

The Unfair Practice Procedure

*Applicable to Unfair Practice in any Assessed Component
contributing to an Award of the University of Wales
(Collaborative Centres)*

Academic Year 2016/17

Scope of this Procedure

This Procedure shall apply to allegations of unfair practice on any assessed component contributing to an award of the University of Wales at any Collaborative Centre

Where an allegation of unfair practice arises at any time after an individual has been admitted to a degree of the University of Wales, or after a Diploma, Licence or other academic award of the University of Wales has been conferred and granted, the allegation will be considered by the Academic Board of the University of Wales. The Academic Board shall have the power to deprive the individual of the degree or to revoke such a Diploma, Licence or other academic award [Statute 19 (3) and (4)].

Throughout this document, the term “Superintendent of Examinations” shall include a Superintendent of Assessment or other equivalent designated officer.

1. Definition of Unfair Practice

It is an unfair practice to commit any act whereby a person may obtain for himself/herself or for another, an unpermitted advantage. This shall apply whether the candidate acts alone or in conjunction with another/others. Any action or actions shall be deemed to fall within this definition whether occurring during, or in relation to, a formal examination, a piece of coursework, or any form of assessment undertaken in pursuit of a qualification of the University of Wales. The University of Wales has distinct procedures and penalties for dealing with unfair practice in examination or non-examination conditions.

Without prejudice to the generality of the foregoing, examples of unfair practice are shown below. These examples are not exhaustive and other cases may fall within the general definition of unfair practice.

2. Examples of Unfair Practice in Non-Examination Conditions

- (i) Plagiarism, which can be defined as using without acknowledgement another person’s words or ideas and submitting them for assessment as though it were one’s own work, for instance by copying, translating from one language to another or unacknowledged paraphrasing. Further examples of plagiarism are given below:
- Use of any quotation(s) from the published or unpublished work of other persons, whether published in textbooks, articles, the Web, or in any other format, which quotations have not been clearly identified as such by being placed in quotation marks and acknowledged.
 - Use of another person’s words or ideas that has been slightly changed or paraphrased to make it look different from the original.
 - Summarising another person’s ideas, judgements, diagrams, figures, or computer programs without reference to that person in the text and the source in the bibliography.
 - Use of services of essay banks and/or any other agencies.
 - Use of unacknowledged material downloaded from the Internet.
 - Re-use of one’s own material except as authorised by the department.

- (ii) Collusion, which can be defined as when work that has been undertaken by or with others is submitted and passed off as solely the work of one person. This also applies where the work of one candidate is submitted in the name of another. Where this is done with the knowledge of the originator both parties can be considered to be at fault.
- (iii) Fabrication of data, making false claims to have carried out experiments, observations, interviews or other forms of data collection and analysis, or acting dishonestly in any other way.
- (iv) Presentation of evidence of special circumstances to Examining Boards, which evidence is false or falsified or which in any way misleads or could mislead Examining Boards.

3. Examples of Unfair Practice in Examination Conditions

- (i) Introduction into an examination room and/or associated facilities any unauthorised form of materials such as a book, manuscript, data or loose papers, information obtained via any electronic device, or any source of unauthorised information.
- (ii) Copying from or communication with any other person in the examination room and/or associated facilities except as authorised by an invigilator.
- (iii) Communication electronically with any other person, except as authorised by an invigilator.
- (iv) Impersonation of an examination candidate or allowing oneself to be impersonated.
- (v) Presentation of an examination script as one's own work when the script includes material produced by unauthorised means.
- (vi) Presentation of evidence of special circumstances to Examining Boards, which evidence is false or falsified or which in any way misleads or could mislead Examining Boards.

4. Unfair Practice in a Formal Examination - Initial Stages

4.1 Unfair Practice in the Examination Room

Where it is considered or suspected that a candidate is engaging in unfair practice, the candidate shall be informed, preferably in the presence of a witness, that the circumstances will be reported. The candidate shall, however, be allowed to continue the examination and any subsequent examination(s) without prejudice to any decision, which may be taken. Failure to give such a warning shall not, however, prejudice subsequent proceedings.

Where appropriate, the invigilator shall confiscate and retain evidence relating to any alleged unfair examination practice, so that it is available to any subsequent investigation. The invigilator shall as soon as possible report the circumstances orally, in the first instance and thereafter in writing, with any evidence retained, to the Examinations Officer who shall in turn notify the Chair of the relevant Examining Board and the Superintendent of Examinations.

In the case of an unseen written test contributing to the final module result, which is conducted under the aegis of the department, the invigilator should report the case to the Head of Department in the first instance, who in turn shall report the case to the Superintendent of Examinations.

4.2 Suspected Unfair Practice Detected During or Subsequent to the Marking Period

An internal or external examiner or any other person who, whether in the course of the marking period or subsequently, considers or suspects that a candidate has engaged in an unfair practice, shall report the matter in writing to the Chair of the relevant Examining Board as soon as possible. The Chair shall retain any relevant evidence and shall forthwith report the matter in writing to the Superintendent of Examinations. The Superintendent of Examinations shall then take the action prescribed below.

4.3 Further Action to be taken by the Superintendent of Examinations

On receipt of a report concerning an allegation of unfair practice, the Superintendent of Examinations shall discuss the matter with the Chair of the relevant Examining Board to determine whether, in the light of all the circumstances, a *prima facie* case has been established.

If it is decided that no further action against the candidate should be taken, the Chair of the relevant Examining Board shall, where appropriate, inform the candidate in writing that the matter is closed.

If satisfied that such a case exists, the Superintendent shall report the case in writing to the designated senior officer of the Collaborative Centre and shall send to him/her copies of any relevant supporting evidence. The procedure shown shall then operate as described.

The candidate shall be informed in writing by the Collaborative Centre of the allegation, and that a Committee of Enquiry will be constituted to consider the case. The candidate's attention shall be drawn to the appropriate regulations/procedures.

5. Unfair Practice in Work Completed Under Non-examinable Conditions - Initial Stages

5.1 If a member of staff considers, or suspects, that unfair practice has occurred in relation to work submitted as a piece of coursework, or any work completed under non-examination conditions, he/she shall report the matter in writing to the Chair of the relevant Examining Board, normally within five working days.

5.2 The Chair of the Examining Board shall first decide whether there is a *prima facie* case for treating the matter as a case of unfair practice by referring to documentation. The Chair may also consult with the relevant external examiner(s). Relevant means of arriving at such a decision may be employed, for instance through the use of plagiarism detection software.

If the Chair of the Examining Board believes that a *prima facie* case exists, the Chair shall inform the designated senior officer of the Collaborative Centre concerned.

If no case exists, and the candidate is aware of the investigation, the candidate shall be informed that the matter is closed.

5.3 If a case exists the candidate shall be informed by designated officer of the centre concerned of the allegation. The candidate's attention shall be drawn to the appropriate regulations/procedures of the University of Wales.

The candidate shall also be informed that a Committee of Enquiry will be constituted to consider the case.

Where the allegation concerns alleged unfair practice in work totalling 20 credits or fewer, which was completed under non-examinable conditions, the candidate shall be informed by the designated officer of the centre that he/she may elect either for the matter to be heard by a Committee of Enquiry or for the matter to be dealt with by the Examining Board. Furthermore, if the Examining Board indicates that it may be more appropriate for a case to be heard by a Committee of Enquiry, a case shall be presented to the designated officer at the Collaborative Centre. Such instances shall include a second offence, an extremely serious case which may in the view of the Examining Board result in a serious penalty or where impartiality may be compromised.

6 Establishment of the Committee of Enquiry to deal with cases of Unfair Practice

- 6.1 Each institution shall establish a 'Committee of Enquiry' for the purpose of investigating allegations of unfair practice in University examinations. The Panel shall consist of members of the contracted academic staff of the Collaborative Centre.
- 6.2 On receipt of an allegation of unfair practice submitted by a Superintendent of Examinations, the designated officer of the Collaborative Centre concerned shall arrange for an appropriate Committee of Enquiry to be convened as soon as possible, normally within 6 working weeks of the allegation being made, and an officer of the centre to act as Secretary to the Committee. The Superintendent of Examinations, who shall present the case against the candidate, shall not act as Secretary to the Committee.
- 6.3 Each Committee of Enquiry shall normally consist of three members. Whenever possible the Committee of Enquiry shall not contain members of staff from a department in which the student is studying. If that is not possible, one of the three members may be external to the Collaborative Centre concerned. An independent person may be appointed as an additional member of the Committee at the discretion of the centre concerned.
- 6.4 All Collaborative Centres shall invite the Deputy Vice-Chancellor of the University of Wales or his/her nominee to attend, as an observer, all meetings of the Committee of Enquiry. The centre concerned shall supply to the University details of the allegations of unfair practice and any other information relevant to the meeting of the Committee of Enquiry.
- 6.5 The University of Wales reserves the right to send a member of staff to attend as observer meetings of a Committee of Enquiry of any Collaborative Centre where the unfair practice is alleged to have been committed on an assessed component contributing to a University of Wales award.
- 6.6 Meetings of Committees of Enquiry shall normally be held on a campus of the centre concerned unless alternative regulations have been agreed such as a Collaborative Partner's campus.
- 6.7 As soon as reasonably practicable after the appointment of the Committee of Enquiry and bearing in mind the University of Wales' expectation that such cases should be heard normally within 6 working weeks of the allegation being communicated to the candidate, the Secretary of the Committee shall:
 - (i) notify the Superintendent of Examinations and members of the Committee of Enquiry of the date, place and time of the meeting and supply them with copies of the allegation and of any statements or documents;
 - (ii) inform the candidate of the date, place and time when the Committee of Enquiry intends to meet and that he/she has the right to be represented or accompanied, to hear all the evidence, to call and question witnesses and to submit other evidence, including evidence of mitigating circumstances;

- (iii) send to the candidate copies of statements of witnesses and of documents to be placed before the Committee of Enquiry, and offer the candidate an opportunity to indicate any statement or documents which may be in dispute.

- 6.8 Documentary evidence shall be sent by the candidate to the designated officer prior to the date of the meeting and circulated to members of the Committee. Any further evidence made available on the date of the meeting may be presented to the Committee but only with the express permission of the Chair.
- 6.9 The candidate shall be required to inform the Secretary whether or not he/she intends to attend the meeting of the Committee of Enquiry. If the candidate indicates that he/she does not wish to attend the meeting, the Committee of Enquiry shall proceed in his/her absence. In such a case the student can elect to be represented at the meeting. Where no response is received from the candidate, there may be one postponement of the Committee of Enquiry pending investigation (e.g. to establish whether the candidate has received the communications). Should a candidate not respond to an invitation to attend a meeting, provided all reasonable means have been taken to contact the student, the meeting shall proceed in his/her absence.
- 6.10 Should a candidate not attend the meeting of the Committee of Enquiry, having previously indicated to the Secretary that he/she would attend, and provided that all reasonable means have been taken to contact the candidate, the meeting shall proceed in his/her absence.
- 6.1 The candidate will be notified of his/her entitlement to be represented or accompanied by a friend, adviser or representative who may speak on their behalf but may not be a solicitor or barrister acting in a professional capacity. Any person accompanying and/or representing the candidate shall be asked by the Committee to identify themselves at the beginning of the proceedings and may be invited by the Committee during the hearing to speak in reference to the case. A candidate who intends to be accompanied and/or represented shall inform the Secretary of the name of the person accompanying and/or representing him/her in writing in advance of the meeting.

7 Functions of the Committee

The functions of the Committee of Enquiry shall be:

- (i) to consider the evidence submitted to it on the allegation of unfair practice;
- (ii) to determine whether the allegation has been substantiated. Such a determination shall normally be made on the balance of probabilities;
- (iii) to determine, in appropriate cases, the penalty to be imposed.

8 Procedure during the meeting

- 8.1 In cases where two or more candidates are accused of related offences, such as in the case of collusion, the Chair may decide to deal with the cases together. However, each candidate shall be given the opportunity to request that the cases be heard separately.
- 8.2 The Superintendent of Examinations shall present the case against the candidate, calling such witnesses and presenting such evidence as the Superintendent thinks fit. Additional documentary evidence in support of the case against the student may only be presented to the Committee on the day of the hearing, with the express permission of the Chair.

- 8.3 The Superintendent may question both the candidate and witnesses. The candidate may question the witnesses called by the Superintendent of Examinations.
- 8.4 The candidate shall have the right to be represented or accompanied, to hear all the evidence brought against him/her, to call and to question witnesses, and to submit other evidence. Additional documentary evidence including evidence of mitigating circumstances may only be presented to the Committee on the day of the hearing, with the express permission of the Chair. The Chair may invite contributions from the person accompanying the student.
- 8.5 Members of the Committee of Enquiry may ask questions of the candidate, the Superintendent of Examinations and of the witnesses.
- 8.6 Witnesses shall be concerned only with evidence relating directly to the allegation and shall normally withdraw after questioning. The Chair may wish to consider allowing witnesses to remain in the hearing throughout the submission of evidence. The agreement of both parties to this shall be obtained.
- 8.7 When the submission of evidence and the questioning of witnesses are completed, all persons, other than the members of the Committee, the Secretary and observers from the Collaborative Centre and/or the University of Wales Registry, if present, shall withdraw.
- 8.8 The Chair of the Committee may approve an adjournment of the hearing following a reasonable request from any party.
- 8.9 The Committee of Enquiry shall then consider whether the allegation has been substantiated. The Committee would not normally be required to prove intent on the part of the candidate to engage in an act of unfair practice in order to substantiate the allegation, but additional proof of intent may be relevant to the Committee in arriving at an appropriate penalty.
- 8.10 The Committee of Enquiry shall not normally be informed, before reaching its verdict on the allegation under consideration, of any evidence of previously substantiated allegations of unfair practice. The Committee shall however be so informed before determining the penalty in appropriate cases. In exceptional cases, evidence of previous substantiated acts of unfair practice may be disclosed prior to the verdict of the Committee where such evidence:
- (i) rebuts a claim of previous good character made by the candidate/representative;
 - (ii) is relevant to the allegation under consideration (other than merely showing that the candidate had a disposition to commit the facts alleged) and that its prejudicial effect does not outweigh its probative value.
- 8.11 If the Committee finds that the case has been substantiated, it shall then consider the penalty to be imposed. Penalties are divided into:
- (i) penalties available for unfair practice in examination conditions;
 - (ii) penalties available for unfair practice under non-examination conditions;
 - (iii) penalties for unfair practice by candidates for research degrees.
- 8.12 When determining the penalty to be imposed, the Committee shall consider the candidate's record, including profile of marks, and any assessment conventions and regulations for the scheme of study in question. The Committee should also consult any guidelines issued on the appropriateness of penalties for different levels of offences.

8.13 If the Committee finds that the case has not been substantiated the candidate shall be informed of the outcome in writing. All record of the case shall be removed from the student's file.

9. Penalties available to the Committee for Unfair Practice in Examination Conditions

The Committee of Enquiry shall apply one or any combination of the following penalties:

- 9.1 The issue of a formal reprimand to the candidate, a written record of which shall be kept.
- 9.2 The cancellation of the candidate's marks in part or in whole for module(s) concerned, or in all of the modules for the year in question or the equivalent for a part-time candidate, with a recommendation as to whether or not a re-assessment should be permitted, either with eligibility for the bare pass mark only or for the full range of marks.
- 9.3 The reduction of the degree result by one class or the non-award of a distinction, as appropriate.
- 9.4 The disqualification of the candidate from any future University of Wales examination.

If a Committee of Enquiry decides that the above penalties are inappropriate, the Committee may use its discretion to decide upon the appropriate penalty.

In exceptional circumstances where an allegation has been substantiated and the Committee is concerned that this may affect the candidate's ability to practise in a particular profession, the case shall also be considered under the institution's procedure for Unprofessional Conduct and Unfitness to Practise.

10. Penalties Available to the Committee for Unfair Practice in Non-Examination Conditions

The Committee of Enquiry shall apply one or any combination of the following penalties:

- 10.1 The issue of a formal reprimand to the candidate, a written record of which shall be kept.
- 10.2 An instruction to the examiners, when marking, to ignore any plagiarized text, which may result in a reduced mark.
- 10.3 The cancellation of the candidate's marks in part or in whole for module(s) concerned, or in all of the modules for the year in question or the equivalent for a part-time candidate, with a recommendation as to whether or not a re-assessment should be permitted, either with eligibility for the bare pass mark only or for the full range of marks.
- 10.4 The reduction of the degree result by one class or the non-award of a distinction, as appropriate.
- 10.5 The disqualification of the candidate from any future University examination.

If a Committee of Enquiry decides that the above penalties are inappropriate, the Committee may use its discretion to decide upon the appropriate penalty.

In exceptional circumstances where an allegation has been substantiated and the Committee is concerned that this may affect the candidate's ability to practise in a particular profession, the case shall also be considered under the institution's procedure for Unprofessional Conduct and Unfitness to Practise.

11. Action to be taken following the Committee of Enquiry

- 11.1 Where the candidate has received a formal reprimand, the Committee may recommend that the candidate should receive advice from an appropriate member of staff, in order to make clear the reasons for the Committee's decision and to ensure that the cause of the action (e.g. unintentional plagiarism) is discussed with the student to ensure that any future repeat offence by him/her cannot then be classed as 'inadvertent'.
- 11.2 When the Committee of Enquiry has investigated the facts of the alleged unfair practice the Secretary shall in his/her report state whether or not the allegation has been substantiated and the penalty imposed where appropriate. The report shall be submitted, to the designated officer of the institution as soon as possible after the Enquiry has been completed.
- 11.3 If the finding of the Enquiry is that a case has not been substantiated, the Chair of the Committee of Enquiry may inform the candidate orally of this. Irrespective of whether or not the candidate is informed orally, the Academic Registrar/Secretary or other designated officer of the Collaborative Centre concerned shall notify the candidate formally in writing of the Committee of Enquiry's findings and that the matter is therefore closed.
- 11.4 If the finding of the Enquiry is that the allegation has been substantiated, the Chair of the Committee of Enquiry may inform the candidate orally, *but there shall be no discussion of the Committee's decision with the candidate*. Irrespective of whether or not the candidate is informed orally, the designated officer of the centre concerned shall inform the candidate of the findings and the penalty imposed as soon as possible. The penalty shall be recorded on the student's record.
- 11.5 At the same time, the designated officer of the centre concerned shall send to the Deputy Vice-Chancellor (Ref: Unfair Practice) of the University of Wales a copy of the report on the Committee of Enquiry and a copy of the letter sent to the candidate informing him/her of the decision and the penalty imposed, where appropriate.
- 11.6 The designated officer of the centre concerned shall further inform the candidate of his/her right of appeal to the University of Wales. Any such appeal shall be sent, in full, in writing to the Deputy Vice-Chancellor (Ref: Appeals) of the University of Wales and must reach him/her not later than 15 working days after dispatch to the candidate by the centre of the Committee's decision. *The address to which any such correspondence shall be sent is shown in the Appendix to this Procedure.*
- 11.7 Where the allegation has been substantiated, the designated officer of the centre shall require the Examining Board concerned to determine the candidate's overall examination result in the light of the penalty imposed by the Committee of Enquiry. If the Committee of Enquiry has decided that the mark obtained for the unit of assessment in which unfair practice has occurred shall be cancelled, the Examining Board shall award a mark of zero for the unit and shall then determine the candidate's overall result.
- 11.8 Normally, the University will not make any public pronouncements of decisions of Committees of Enquiry. However, a candidate, in respect of whom a determination has been made, shall have the right to require the Collaborative Centre concerned to publish any determination should the candidate so wish and the institution shall maintain a record of all such cases, which will be available to the public on request.

12. Examination Pass-Lists

- 12.1 Should a case be under investigation when a pass-list is due for completion and publication, the name of the candidate concerned shall be withheld from the pass-list and a supplementary pass-list issued as appropriate.
- 12.2 An Examining Board shall also have authority to cancel a result previously published and to publish a supplementary pass-list, if a case of unfair practice arises subsequent to the publication of the original pass-list.

13. Appeal to the University of Wales

Details of the relevant Appeals Procedure are given in Section F of this Handbook. This procedure does not apply in the case of candidates who have elected to have their case dealt with by the Examining Board concerned (under paragraph 5.3 (ii) of the Unfair Practice Procedure, above) rather than by a Committee of Enquiry. Such candidates are advised that, instead, they may have recourse to appeal against the decision of the Examining Board under the University's separate Appeals Procedure (also given in Section F).

14. Report to the Academic Board of the University of Wales

A list of substantiated unfair practice cases at each Collaborative Centre shall be reported to each meeting of Academic Board. The Secretary to the Academic Board or his/her nominee shall send a request to each Centre to provide a list of all substantiated unfair practice cases prior to each meeting of the Board. Centres are required to submit the list of cases on or before the stipulated deadline, and the name of any Centres who fail to respond shall be reported to the Board. If there should not be any substantiated cases of unfair practice in the given period, the Centre should provide confirmation of a nil return.

The Secretary to the Academic Board or his/her nominee shall also submit a report on the outcome of each case of unfair practice considered by the University.

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