

Student appeal against exclusion or expulsion procedure

Responsibility for Policy:	University Secretary and General Counsel
Relevant to:	All LJMU students
Approved by:	SMT on 11 June 2013 and ratified by Academic Board on 24 June 2013
Responsibility for Document Review:	University Secretary and General Counsel
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RELEVANT DOCUMENTS

- Data Protection Act 2018

RELATED POLICIES & DOCUMENTS

- Academic Framework Regulations
- Academic Misconduct Procedures
- Code of Acceptable Behaviour for Students in Partner Accommodation
- Computing Disciplinary Procedures
- Computing Facilities Conditions of Use
- Criminal Convictions Policy
- Equality & Diversity Policy
- Fitness to Practise Policy
- Fitness to Study Policy
- Social Networking Statement
- Student Code of Behaviour and Disciplinary Procedures
- Student Governance Privacy Notice
- University Retention Schedule

STUDENT APPEAL AGAINST EXCLUSION OR EXPULSION PROCEDURE

1. Introduction

- 1.1.** The University defines Exclusion from the University as a total prohibition from all LJMU premises, services and activities for a defined period of time.

The University defines Expulsion from the University as a total prohibition from all LJMU premises, services and activities permanently.

The University defines Expulsion from the Programme as the permanent removal of a student from a specific programme of study. Where students are expelled from a programme of study they may be able to apply for other programmes.

- 1.2.** All recommendations for Exclusion or Expulsion must be formally approved by the Vice-Chancellor. Students may be excluded or expelled from their programme of study or Liverpool John Moores University (LJMU or the University) as an outcome following:

- Student Disciplinary Procedures,
- Academic Misconduct Penalties,
- A Criminal Convictions Panel,
- A Fitness to Practice Panel
- Following consideration under the Fitness to Study procedure,
- Any relevant policy or procedure that applies to students.

Following the Vice-Chancellor's approval, the student will be formally notified of the decision and the appeal against Expulsion and Exclusion procedure.

- 1.3.** Students will receive a separate notification from the relevant Board of Examiners informing them of whether the BOE intend to confer an award, and if so what that award will be. Appeals against the award, or against the decision to withhold an award, can be made via the Academic Appeals process and the form is available on the MyLJMU student portal.

- 1.4.** Information disclosed during the Appeal against Expulsion/Exclusion Procedures is confidential to all parties.

Further information on Confidentiality and Data Protection in this procedure is available in the **Student Governance Privacy Notice** <https://www.ljmu.ac.uk/about-us/public-information/student-regulations/guidance-policy-and-process>

2. Appeal against Exclusion or Expulsion

- 2.1. Students have a right of appeal to the Board of Governors, following formal notification of Exclusion or Expulsion, The appeal is not a reopening of the investigation and will not consider new evidence other than evidence that was genuinely not available to the appellant at the time of the original decision.
- 2.2. Disagreement with the decision to exclude or expel is not in itself grounds for appeal. Appeals will only be considered where the student can demonstrate that the relevant procedures have not been followed correctly and/or that the decisions made were unreasonable in the circumstances.
- 2.3. The University will deem an appeal to be 'not eligible' and reject the appeal if there is no reference to the appeal criteria as stated in 2.1 and 2.2 and/or there is no evidence to support their claim.
- 2.4. Normally, appeals will be heard within 28 working days of being lodged, unless varied by mutual agreement.
- 2.5. The request for an appeal must be made in writing with full supporting evidence within ten (10) working days of the date of the decision letter.
- 2.6. Appeals should be addressed to the University Secretary via the Student Governance Office LJMU, Exchange Station, Tithebarn Street Liverpool, L2 2QP. Email: StudentGovernance@ljmu.ac.uk
- 2.7. The Governors will delegate responsibility for hearing an appeal to the Exclusion/Expulsion Appeal Panel, consisting of the following members who have no connection to, or prior knowledge of, the case:
 - i. Chair of the Appeal Panel, who is an independent or co-opted member of the Board of Governors; advised on matters of procedure by the University Secretary (or nominee).
 - ii. a member of University staff representing the Strategy Delivery Forum (SDF).
 - iii. The President of John Moores Students' Union (JMSU) or his/her nominee from the sabbatical officers.
- 2.8. The appellant has the right to be accompanied by a friend. Refer to *Definition of a Friend and Representative in Student Governance Procedures* at <https://www.ljmu.ac.uk/about-us/public-information/student-regulations/guidance-policy-and-process>
- 2.9. The Exclusion/Expulsion Appeal Panel Hearing Protocol is outlined in Appendix 1.

- 2.10. The Panel will determine whether the appeal is upheld, upheld in part or not upheld and determine one or more of the following:
- No further action (the original decision and sanction remain the same).
 - Defer their decision pending further information.
 - Remove the sanction and provide a clear rationale for doing so.
 - Refer the matter back to the appropriate stage of the preceding process for reconsideration in light of the findings of the Appeal Panel.
 - Amend outcome/findings and provide a clear rationale for doing so.
 - Amend decision/sanction and provide a clear rationale for doing so.
- 2.11. The decision of the Appeal Panel is final and the student and the relevant Director will be notified in writing of the decision by the Panel Adviser within five (5) working days of the decision.
- 2.12. Prospective students who have previously been expelled from the University must disclose this in any future applications to any LJMU programmes. The decision whether or not to offer a place on any programme will rest with the Director of School (or nominee) and the General Counsel and University Secretary (or nominee). Failure to disclose such information will result in applications being rejected. Students who enrol without declaring that they have been previously expelled from LJMU or another Higher Education institution will be subject to disciplinary proceedings.

3. Completion of Procedures and the Office of the Independent Adjudicator (OIA)

- 3.1. A Completion of Procedures letter will be issued to students when the internal procedures have been completed.
- 3.2. Students who have completed all internal procedures and remain dissatisfied with the outcome and consider that the University has failed to follow this procedure may take their case to the Office of the Independent Adjudicator for Higher Education (OIA).
- 3.3. The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. Liverpool John Moores University is a member of this scheme. If a student is unhappy with the outcome they may be able to ask the OIA to review their complaint. Students can find more information about making a complaint to the OIA, what it can and can't look at and what it can do to put things right if something has gone wrong at: <https://www.oiahe.org.uk/students>.

A student normally needs to have completed the Appeal Against Expulsion procedure before they can complain to the OIA. Liverpool John Moores University will send a student a letter called a "Completion of Procedures Letter" when they have reached the end of university processes and there are no further steps the student can take internally. If the student's appeal is not upheld, Liverpool John Moores University will issue the student with a Completion of Procedures Letter automatically. If the complaint is upheld or partly upheld the student can ask for a Completion of Procedures Letter if they want one. Students can find more information about Completion of Procedures Letters and when they should expect to receive one at <https://www.oiahe.org.uk/providers/completion-of-procedures-letters>.

4. Records

- 4.1. Notes (not verbatim minutes) will be taken and will be available to the student appellant on request.
- 4.2. All files relating to an individual student's appeal outcome will be held by the Student Governance Office. Records will be retained in accordance with the University Retention Schedule.

5. Amendments and Review of the Appeal against Exclusion and Expulsion Procedure

- 5.1. The University reserves the right to amend and review this procedure in light of operating experience and/or prevailing circumstances.

6. Advice

- 6.1. Students can obtain professional and independent advice from a qualified adviser at Liverpool John Moores Students' Union Advice Centre, telephone number 0151 231 4900 or email JMSUadvice@ljmu.ac.uk

Further information is available on the Liverpool John Moores Students' Union webpages at <https://www.ljmu.co.uk/advice>

APPENDIX 1 Exclusion/Expulsion Appeal Panel Hearing Protocol

The purpose of the Appeal Panel is to consider whether the relevant procedures have been followed correctly and/or whether the decision to exclude or expel was reasonable in the circumstances.

(Secretarial, administrative support and advice will be provided by the Legal and Governance office).

1. The Chair of the Appeal Panel will receive advice regarding protocol and procedure from the University Secretary (or nominee).
2. On appeal, evidence/witness statements will be circulated to the panel. All parties will receive the papers in advance of the appeal hearing.

Before the Hearing

1. All documentary evidence will be exchanged between the parties and forwarded to the Appeal Panel **at least 5 working days** in advance of the appeal hearing taking place.
2. Both the student appellant and the Presenting Officer have a responsibility to indicate an intention to call witness(es) by providing the administrator with a list of names **at least 3 working days** prior to the hearing taking place.
3. Witnesses called by the Presenting Officer will be notified of their requirement to attend by the administrator.
4. The appellant who wishes to call witnesses, must make his/her own arrangements.
5. Where appropriate, the Chair may also call witnesses or request further information to clarify the circumstances of the case.
6. Witnesses called must be a witness to the actual events, incidents or where they can provide compelling evidence to dispute the outcome of previous proceedings. The Appeals Hearing is not a reopening of any investigations and witnesses who have been interviewed as part of any investigations will not normally be required to attend the Appeals Hearing. It is at the discretion of Chair of the Appeals Hearing whether a witness is relevant to the proceedings

Students can provide written character references. Character referees may not be called as witnesses to attend the Appeals Hearing.

Appendix 3 provides further information in relation to witnesses and character references.

At the Hearing

1. The Chair will explain the status of the hearing, which is established in accordance with the University's Articles of Government. <https://www.ljmu.ac.uk/about-us/structure/governance-and-charitable-status> The appeal represents the last stage of the University's procedures and the decision of the panel is final.
2. The Chair's Adviser has the right to intervene during an appeal hearing on matters of procedure and policy.
3. The Chair will ascertain the names and roles of all present and confirm the names of the witnesses (if any). Where appropriate the Chair will confirm, for the record, that a student has chosen not to be represented by a friend.
4. The Chair will summarise the key points to be considered at the hearing.
5. Following this, the Chair will invite the appellant to present the case for appeal and to call his/her witnesses (if any).
6. The Chair will invite the Presenting Officer to question the appellant and/or witnesses, at appropriate stages during the appellant's statement of case.
7. Members of the Panel can ask questions at any stage during the appellant's statement of case and may seek clarification of any statement made in support of the appeal. The Chair will normally reserve the majority of his/her questions until the statement of case, and any questions from the Presenting Officer have been completed.
8. The Chair will invite the Presenting Officer to respond to the case for appeal and to call his/her witnesses (if any).
9. The Chair will invite the appellant to question the Presenting Officer and/or witnesses, at appropriate stages.
10. The Panel can ask questions at any stage during the Presenting Officer's response. The Chair of the Exclusion/Expulsion Appeal Panel will normally reserve the majority of his/her questions until the response, and any questions from the appellant, have been completed.
11. The Chair may offer the appellant and the Presenting Officer a short time to prepare their final summary statements. If required, the Chair may adjourn the Hearing for a specified period.
12. The Chair will invite the appellant to summarise their appeal and **summarise any mitigating circumstances or factors that they wish the Panel to take into account.**
13. The Chair will invite the Presenting Officer to summarise their case and summarise any mitigating circumstances or factors that they wish the Panel to take into account.
14. The Chair will then adjourn the hearing. Everyone, except the Chair, members of the Panel, the Adviser and Note Taker, will withdraw from the room to allow the Panel to make a decision.

15. In exceptional circumstances, the Panel may defer its decision pending its request for information. Should this be the case, all parties will be informed about the nature of the enquiry.
16. Following discussion, Panel members will advise the Chair of their opinion of the case. The Chair will act as final arbiter in the matter.
17. The Panel will determine whether the appeal is upheld, upheld in part or not upheld and determine one or more of the following:
 - No further action (the original decision and sanction remain the same).
 - Defer their decision pending further information.
 - Remove the sanction and provide a clear rationale for doing so.
 - Refer the matter back to the appropriate stage of the preceding process for reconsideration in light of the findings of the Appeal Panel.
 - Amend outcome/findings and provide a clear rationale for doing so.
 - Amend decision/sanction and provide a clear rationale for doing so.
18. The decision of the panel will be confirmed to all parties in writing by the Adviser to Panel **within 5 working days** of the decision.

LINKS TO RELATED POLICIES AND PROCEDURES

Academic Misconduct	https://www.ljmu.ac.uk/about-us/public-information/student-regulations/academic-misconduct
Criminal Convictions	https://www.ljmu.ac.uk/about-us/public-information/student-regulations/guidance-policy-and-process
Fitness to Practise	https://www.ljmu.ac.uk/about-us/public-information/student-regulations/guidance-policy-and-process
Fitness To Study Policy	https://www.ljmu.ac.uk/about-us/public-information/student-regulations/guidance-policy-and-process
Student Code of Behaviour and Disciplinary Procedures	https://www.ljmu.ac.uk/about-us/public-information/student-regulations/guidance-policy-and-process
Student Governance Privacy Notice	https://www.ljmu.ac.uk/legal/privacy-and-cookies/external-stakeholders-privacy-policy/student-governance-privacy-notice#:~:text=Student%20Governance%20will%20not%20discuss,written%20consent%20from%20the%20student.

Appendix 3: Witnesses and Character References

Witnesses

Within these Procedures, the University considers a witness to be a person who has witnessed the actual events or incidents under consideration, not character witnesses or character referees. Character witnesses or character referees will only be accepted as written statements and will not be party to meetings or hearings.

As part of the Process, those staff investigating the matter and/or making a finding on the matter will assess the relevance and weighting of any witness statements.

Students, staff and witnesses are advised that the matters are confidential to the parties of the process.

It is a serious disciplinary offence for any person to attempt in any way to influence a witness in relation to their evidence, or to request any other person to do so.

Students or staff who provide false information in their witness statements may be subject to disciplinary procedures.

The University can normally only interview witnesses who are employed by LJMU or who are students at LJMU and normally only when they agree to be interviewed.

Witnesses may be interviewed in their professional capacity for example a member of the police or a Professional, Statutory or Regulatory Body (PSRB)

Witnesses may be asked by Student Governance to submit signed witness statements and to respond to any queries in relation to their statement.

Staff and Students may also submit a signed written statement from external witnesses.

Appeal against Expulsion Hearing

Witnesses will not normally be required to attend an Appeal against Expulsion Hearing, unless there is a specific reason why it is not sufficient merely for the witness' statement to be included as part of the Panel Papers.

The Hearing is not a reopening of any investigations and witnesses who have been interviewed as part of any investigations will not normally be required to attend a Hearing.

The student and the Presenting Officer may request a witness to attend the Student Discipline Hearing and any such request will be considered by Student Governance and the Chair. It is at the discretion of Chair of the Hearing whether a witness is relevant to the proceedings.

All parties have the responsibility to indicate an intention to call witnesses by providing the list of names to Student Governance at least three (3) working days before the Hearing. Witnesses called by the Presenting Officer will be notified of their requirement to attend. Students who wish to call witnesses must make their own arrangements.

Where appropriate the Chair may also call witnesses or request further information to clarify the circumstances of the case.

Other Information: Personal and Medical Circumstances, Character References

Students can submit evidence of extenuating circumstances, personal circumstances and other mitigating factors that they wish the University to consider in relation to the case.

Evidence can include medical letters, character references and testimonials etc.

Mitigation, extenuating and personal circumstances are not considered by the University in deciding whether a student is guilty of an offence but will be considered by the University when deciding about:

- the procedure to follow (for example in some cases the matter will be referred to Fitness to Study Procedures)
- Whether advice, support or reasonable adjustments should be made, including consideration of whether to procedures are suspended.
- And when making a decision in relation to a penalty or sanction.

Character References and Testimonials

Students can submit character references and testimonials that they wish the University to consider.

Student Guidance:

Character references and testimonials are considered more credible if they can provide an objective opinion about students and are from a person who the student has had direct contact with during their time as a student at LJMU. Friends, relatives, former schoolteachers, and fellow students do not meet these dual criteria and are not recommended.

Students can submit character references and testimonials from people who are not connected to the University or programme of studies, for example an employee.

It should be made clear in the document that is supplied what the referee is aware of with regards to the circumstances of the case. There is no requirement for students to tell the writer about the case, but the document should make it clear whether or not the opinions are being made in the full knowledge of the case.

Character references and testimonials should be dated, include the name, address and contact details of the author, should where possible be on letter headed paper and signed, and should explain how the author knows the student.