**UNIVERSITY OF SOUTH WALES**

**PRIFYSGOL DE CYMRU**

**STUDENT CASEWORK UNIT**

**Guidance on Complaint Remedies and Redress**

1. **Introduction**

The University’s approach to dealing with a student complaint, which has been found to be upheld or partly upheld, is to provide practical remedies where possible that make good the issue complained about, and which as far as possible returns the student to a position, academic or otherwise, which is where they would have been were it not for the issue happening.

An investigation into a student complaint will not simply determine whether the complaint is upheld or partially upheld but will seek to recommend what needs to be done to put things right. This consideration and offer of remedy should happen at the earliest opportunity, either at the early resolution or formal investigation stage and should not be left for decision at the review stage, should a student decide to take their case there.

This document provides guidance on the type of remedies that may be appropriate, and how a decision on which remedy(s) to offer should be arrived at. Please read this document in conjunction with the Procedure for Approving Proposals for Financial Compensation (see Appendix 1).

**2. Responsibilities and Duties in Law**

***Statutory responsibilities***

Consumer Rights Act 2015: <http://www.legislation.gov.uk/ukpga/2015/15/contents/enacted>

Higher Education (Wales) Act 2015: <http://www.legislation.gov.uk/anaw/2015/1/contents/enacted>

***Sector-wide responsibilities***

QAA Quality Code: <http://www.qaa.ac.uk/assuring-standards-and-quality/the-quality-code/quality-code-part-b>

Office of the Independent Adjudicator for Higher Education: <http://www.oiahe.org.uk/>

Competition and Markets Authority Guidance: <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/428549/HE_providers_-_advice_on_consumer_protection_law.pdf>

***Institutional responsibilities***

Student Complaints Regulations: <http://uso.southwales.ac.uk/StudentCasework/SCP/>

***Advice and guidance***

Advice and guidance on remedies and redress can be sought from:

Siobhan Coakley, Associate Registrar: Student Casework – Ext: 82448;

[siobhan.coakley@southwales.ac.uk](mailto:siobhan.coakley@southwales.ac.uk)

Gwen Jones, Senior Casework Officer, Student Casework – Ext. 54225;

[gwen.jones@southwales.ac.uk](mailto:gwen.jones@southwales.ac.uk)

**3. Available Remedies**

Financial remedies are only considered where there is evidence of material financial harm or where other remedies are not available or are considered to insufficiently compensate the student because they cannot be returned to the position they were in before the matter complained about.

Examples of alternatives to financial remedies include:

* providing the student with an apology
* allowing a student to take a module or modules again
* changing a policy or process (to satisfy a student that ‘this will not happen to another student again’, which is often a desired outcome)
* putting on special provision (for example, another teaching placement, or another opportunity to go on a field trip)
* offering an alternative service
* changing the way in which a service is delivered
* ensuring that a situation which has impacted upon a student’s academic position is considered through the committees/panels/boards.

In all cases, the aim should be as above: as far as possible to return the student to a position comparable to that which they would have been in had the matter upheld as a complaint not occurred.

**4. Determining Financial Remedies**

A decision on any financial remedy is for the University to make on the basis of what the University considers to be appropriate, proportionate and reasonable given the findings of the complaint investigation or review. In arriving at a judgement, the University will consider four criteria:

1. direct material loss
2. loss of opportunity
3. distress and inconvenience
4. case history and other similar awards.

In each of these the University will consider the findings of the complaint investigation or review, the recommendations of the faculty (at the early resolution stage)/investigating officer (at the formal stage)/complaint review officer (at the review stage) and the evidence before it.

It will also examine actions, which have or have not been taken by either the student or the University to take reasonable steps to minimise or mitigate the impact of the issues upheld in the complaint, and this will factor into the final decision.

1. ***Direct material loss***

The University will require students to submit documentary proof of actual losses incurred, and will make a decision on remedy based on whether, on the balance of probabilities, those losses were materially due to actions of the University as determined in the complaint investigation.

1. ***Loss of opportunity/indirect loss***

Students will be expected to set out clearly, with evidence, where they have suffered a loss of opportunity or indirect loss. This might be, for example, that they could not take up the opportunity of a placement or a year abroad, or that their professional placement was flawed and did not provide them with the opportunity to practice, improve and gain confidence before entering employment.

The University’s offer to students is set out in a number of documents: terms and conditions, course specifications, course handbooks, regulations etc. Where students feel that an issue of complaint means that the University has not delivered on that offer they can set out in their complaint those services or obligations not delivered, and the consideration of loss should take into account the severity of the failure to provide service and the likely impact of that upon a student based on both firm evidence where it is available, and on the balance of probabilities.

Where medical or similar impact is claimed, suitable evidence must be provided both of the condition itself and that it is in some way due, or partially due, to the events complained about.

It is very difficult to quantify how an issue may have affected a student’s broader programme of study. In its consideration the University may look at evidence such as academic performance elsewhere, or how and when issues have been raised through feedback or other sources, and reach a decision on the balance of probabilities. It may require an assessment from a relevant part of the University as to the likely academic impact, in the context of the student’s overall performance.

A refund relates to the repayment of sums paid by the student to the University or an appropriate reduction in the amount of sums owed in future and could include tuition fees, other course costs or accommodation costs. A full or partial refund of tuition fees will only be considered where the investigation finds serious failings in teaching or supervision which would materially impact upon a student’s performance and where it is not possible to remedy the situation via other means.

An assessment of this category should examine:

* What loss of opportunity is claimed, and would there have been a material difference to this were it not for the factors upheld in the complaint?
* What elements of stated service did the University not deliver, how serious were these failings or omissions in the context of the area complained about and the student’s overall programme of study, and what material impact can be evidenced or surmised?
* What evidenced personal impact is there?

1. ***Distress and inconvenience***

A decision on whether to make a payment for distress and inconvenience may be decided upon in addition to, or instead of, other practical or financial remedies, and will normally only be made where the complaint is upheld and found to have had a significant impact on the student, and in particular where serious failings are identified. This consideration will also take into account the student’s own conduct: for example, where delays in resolving a matter were partly caused by the student, or whether the student has acted unreasonably in refusing or rejecting alternative solutions proposed by the University. The decision will consider:

* the extent of the inconvenience
* the severity of any distress, and whether any supporting evidence exists to document it
* whether the student raised these issues at the time
* the period over which the problem occurred
* whether there have been failures or delays by the University in dealing with the issue which were within its control
* the nature and number of the University’s acts which led to the complaint being upheld
* whether the University has taken steps to address or reduce any distress or inconvenience
* whether the handling of the case has created additional distress or inconvenience above that inherent in any complaint.

In making any award, the OIA’s guidance will be taken into consideration. The OIA operate three bands, but do not in their guidance indicate explicitly how an individual case is placed in those bands. Where the distress is minor, or was put right quickly, then a payment at the lower end of the scale would be appropriate. If the distress was more serious, or was not put right as quickly as it could have been, the middle of the scale should be used. The higher end would be used where there is evidence of severe distress or inconvenience caused.

Indicative bands for OIA distress and inconvenience awards

|  |  |
| --- | --- |
| **Level of distress and inconvenience** | **Recommended compensation** |
| Moderate | Up to £500 |
| Substantial | Between £501 and £2,000 |
| Severe | Between £2,001 and £5,000 |

1. ***Comparable awards of compensation***

In considering the amount of compensation to be awarded in each individual case, the University will consider the following, but is not bound by them and will make a decision on the merits of each case:

* previous awards of compensation made by the University
* awards made by the Office of the Independent Adjudicator or other relevant bodies, either at this University or as published in OIA case studies or guidance.

**5. Fastrack Process**

There may be occasions, where an issue is known to have affected a large number of students, when the University decides to make an offer to all affected students to remedy the issues outside of the normal Student Complaints Regulations. Students will not lose the right to access the University’s Student Complaints Regulations should they wish to do so or if they remain dissatisfied with the offer.

**Appendix 1**

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**PROCEDURE FOR APPROVING PROPOSALS FOR FINANCIAL COMPENSATION**

Recommendations made through the University’s internal complaints procedure

1. In the course of investigating complaints the faculty, investigating officers or complaint review officers may on occasion conclude that the University should provide financial compensation to a student. This will normally only be done where there is no alternative remedy which is appropriate in the circumstances (please see Guidance on Remedies and Redress).
2. Prior to conveying to the student a conclusion which includes financial compensation (or even discussing the potential offer with the student), the following procedure should be followed:
   1. A meeting should be convened with the Associate Registrar (Student Casework) (or nominee) and the Dean of Faculty/Head of Department (or nominee) to discuss the proposed financial compensation and the grounds and evidence on which the conclusion to offer this amount has been reached

2.2 Where the proposed financial compensation is up to and including £500 the Associate Registrar (Student Casework) will make the decision

2.3 Where the proposed financial compensation is above £500 the Associate Registrar (Student Casework) (or nominee) will produce a report, which will be considered by the Deputy Vice Chancellor (Strategic Resources) (or nominee), providing details of the case, information on any relevant previous cases and the amount of financial compensation made in such cases. A decision on the proposed compensation will be provided within 5 working days.

1. The Student Casework Unit will write to the student detailing the proposal for financial compensation and requesting the return of the Financial Claim Form.
2. The faculty/department will be responsible for arranging payment upon receipt of the Financial Claim Form from the Student Casework Unit.

Fee waivers

6. Where a student has been incorrectly informed of the fees for a course, and the University has agreed to charge the lower fee, the Associate Registrar (Student Casework) is responsible for approving the waiver.

Recommendations made by the Office of the Independent Adjudicator for Higher Education

(OIA)

7. Recommendations for financial compensation are occasionally made by the OIA as a result of its investigations into complaints by students of the University. Where this is the case, the procedures under 2.2 and 2.3 above should be followed.