

# Terms of Reference for the Academic Appeals Committee, the Academic Appeals Committee for Graduate Students (Taught) and the Academic Appeals Committee for Graduate Students (Research).

## 1. Introduction

The Academic Appeals Committee is the University wide body charged with determining Undergraduate Academic Appeals pursuant to Paras 69-70<sup>1</sup> of PART B - General Regulations of Part II of the College Calendar (<https://www.tcd.ie/media/tcd/calendar/undergraduate-studies/general-regulations-and-information.pdf>) and in accordance with Trinity's Appeals Policy (Academic Progress) and accompanying guidelines (<https://www.tcd.ie/media/tcd/about/policies/pdfs/academic/appeals-academic-progress-nov2023.pdf>). Its primary purpose is to hear appeals from relevant decisions of the Senior Lecturer/ Dean of Undergraduate Studies (which themselves are, in general, responses to recommendations from a Court of First Appeal (COFA)).

The Academic Appeals Committees for Graduate Students (Taught) and (Research) are the University wide bodies charged with determining Postgraduate Academic Appeals pursuant to Paras 56<sup>2</sup> et seq. of Section 1 - General Academic Regulations for Graduate Studies and Higher Degrees of Part III of the College Calendar (<https://www.tcd.ie/media/tcd/calendar/graduate-studies-higher-degrees/complete-part-III.pdf>) and in accordance with Trinity's Appeals Policy (Academic Progress) and accompanying guidelines. Their primary purpose is to hear appeals from relevant decisions of the Dean of Graduate Studies.

Additionally, the Academic Appeals Committee, the Academic Appeals Committee for Graduate Students (Taught) and the Academic Appeals Committee for Graduate Students (Research), as appropriate, shall also hear appeals against decisions taken by one or more of the level 2 decision makers provided for by the Student Capacity (Fitness to Study) Policy. These decision makers are the Senior Lecturer/ Dean of Undergraduate Studies, the Dean of Graduate Studies, the Registrar of Chambers, the Warden of Trinity Hall, and the Secretary to the College.

The principles outlined below are common to all of these Academic Appeals Committees, hence the term 'AAC' is used throughout to refer to all three such committees.

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<sup>1</sup> Courts of First Appeal and Academic Appeals Committee currently paras. 69 & 70. Numbering in the Calendar Part II is subject to change.

<sup>2</sup> Numbering in the Calendar Part III is subject to change.

## 2. Limits to the Jurisdiction of the AAC

- (a) The AAC does not hear appeals in relation to claims of the kind that fall under Para 68 (re-check/re-mark procedure) of PART B - General Regulations of Part II or Para 33 of Section 1 – General Academic Regulations... of Part III of the College Calendar, namely claims that (a) components of an assessment were not correctly added up; (b) a student was not examined on their course, or (c) that the student was impacted by bias on the part of their examiner. In addition, the AAC does not hear appeals where a student is seeking, expressly or impliedly and for whatever reason, a recheck or reassessment of their grades (including reassessment by an external examiner). Any appeal which is found, by the AAC to fall within these grounds will be rejected either without a hearing or, where appropriate, following a hearing. For the avoidance of doubt, the AAC does not hear appeals against decisions of the Senior Lecturer made pursuant to Para 68 of Part II or of the Dean of Graduate Studies made pursuant to Para 33 of Part III.
- (b) Save in extraordinary circumstances which must be established by the appellant, the AAC does not hear appeals where the matter has not previously been considered by the COFA, the Senior Lecturer or the Dean of Graduate Studies, as appropriate. An exception to this rule is where the appellant is seeking a relief that the COFA cannot grant, for example to lift an undergraduate's exclusion from College (which must be presented to Council) then the appellant need not have brought the case to the COFA (but they must still have appealed to the Senior Lecturer).
- (c) Save in extraordinary circumstances that must be established by the appellant, the AAC does not hear appeals brought more than 18 months after the date of the decision that is the subject of the appeal in the case of undergraduate appeals, and not more than 4 months in the case of postgraduate appeals.
- (d) As is outlined below, the AAC may, from time to time, determine that there are certain reliefs that it is not prepared to grant either because there is a clear and settled University policy against the grant of such reliefs or because what is sought is logistically impossible from a university standpoint. At the current time, this would include reliefs that seek to permit a student to rise with their year when they have not passed sufficient credits to do so or reliefs that seek to permit a student to sit a 'special supplemental exam or assessment' (that is, one outside of the annual or supplemental sessions).
- (e) In the case of decisions made pursuant to the Student Capacity (Fitness to Study) Policy, the AAC will not hear appeals where the matter has not been considered by the relevant decisions maker(s).

### 3. Hearing Sessions

The AAC is convened twice a year, to deal with appeals following the annual and supplemental examination periods. There is a strong presumption against the hearing of appeals outside of these standard sessions, other than in circumstances where there is an unusual urgency to the matter which necessitates that it be heard outside of the normal time-frame. It is for the appellant to establish this urgency, and the decision whether the matter *is* of this level of urgency, and thus whether to schedule a hearing outside of one of the two sessions lies within the exclusive discretion of the Chair of the AAC.

### 4. Membership and Quorum

The Registrar shall act as Chair of the AAC. All other members must, annually, be proposed to and approved by Council. The membership of the three College-wide appeal committees shall be the same.

There shall be a Secretary to the AAC who shall be appointed as such (following the principle of delegation) by the Registrar but who shall not be drawn from the membership of the AAC. The Secretary shall organise the meetings of the AAC, shall disseminate all relevant paperwork, shall take notes at any hearing, and shall communicate the decisions made by the AAC.

The quorum for any decision of the AAC (whether in the context of a hearing or made electronically) is one third of the total membership plus one. If any member of the AAC is deemed, by the Chair, to have a conflict of interest in the matter (for example if they have a particular connection to the student - including if they are the student's tutor - or if the matter relates to the school or department of which they are a member) then they shall take no part in the AAC's consideration and adjudication of that appeal. For the avoidance of doubt, a student has no entitlement to have certain members of the AAC deal with their case.

Whereas efforts will be made to ensure that the composition of any AAC is (a) gender balanced; (b) has a balance of members across all faculties, and (c) has at least one representative from the School of Law, in certain cases and depending on the availability of members, any or all of these things may not be possible.

### 5. Preliminary Procedures

- (A) The AAC has discretion to determine its own procedures, both generally and in the specific circumstances of an individual case.

- (B) An appeal submitted to the AAC is reviewed, in the first instance, by the Chair. In circumstances where the applicant is seeking a hearing outside of the normal annual and supplemental sessions, it shall be for the Chair to determine whether there is sufficient urgency to the matter to warrant this. In making this decision, the Chair may consult with any person that they deem appropriate, including members of the AAC, the Senior Tutor or the Postgraduate Advisory Service, any representatives of the college services, or, in the case of hearings relating to Student Capacity (Fitness to Study), with the Student Capacity Advisory Group.
- (C) If the Chair suspects that the appeal is one over which, for the reasons outlined above, the AAC should not have jurisdiction or if s/he has doubts as to whether, on the basis of the appeal documentation submitted, there is any case for a hearing, the Chair shall refer the matter to the members of the AAC electronically. In both such cases, and if no member of the AAC dissents to a proposal (to hear or not to hear a matter) made by the Chair, or requests that the matter be discussed at a meeting of the AAC, then the decisions on such questions can be made purely on the basis of electronic communications. If, on this basis, the AAC concludes either that the AAC should not take jurisdiction over a matter or that there is no case for a hearing, then the Chair shall write to the appellant rejecting the appeal.
- (D) If the Chair, on review of the documentation (and having consulted with any parties that s/he deems appropriate), is of the view that there is a strong argument that, having regard to previous decisions of the AAC or the nature of the appeal document, there is no question but that the appeal will be granted, the Chair shall write to all members of the AAC proposing that the appeal be granted. If no member of the AAC dissents, or requests that the matter be discussed at a meeting of the AAC, then the decision to grant the appeal can be made purely on the basis of electronic communications. If, on this basis, the AAC decides to grant the appeal, then the Chair shall write to the appellant and the respondents granting the appeal.
- (E) On review of the documentation, the Chair may make various other proposals to the members of the AAC in relation to the hearing of the matter (including that parts of the appeal would be rejected or granted, that certain witnesses would be asked to attend, or that the matter would be approached in a particular way during the hearing). If no member of the AAC dissents, or requests that the matter be discussed at a meeting of the AAC, then the decision to reject or grant a part or parts of the appeal, or other decisions as aforementioned, can be made purely on the basis of electronic communications.
- (F) In other circumstances, the Secretary to the AAC shall seek to organise times for appeals to be heard. Apart from the appellant and their Tutor, or a representative from the Senior Tutor's Office/ the Postgraduate Advisory Service, it shall generally be necessary for the following to be in attendance at any hearing:

- (i) The Senior Lecturer or Dean of Graduate Studies, and/ or other relevant decision makers, as appropriate.
- (ii) A representative or representatives from the relevant school, department, course, institute, or administrative unit as appropriate. Typically, though not necessarily, this would include the DUTL or DTLP in the relevant School, as appropriate.
- (iii) Any other relevant parties as determined by the Chair of the AAC.

A student may be represented only by their Tutor, someone from the Senior Tutor's Office/the Postgraduate Advisory Service, or a Students' Union representative. In very rare circumstances, the Chair may permit a student to be accompanied by their parents or a family member or close friend, though never in a representative capacity.

## 6. Hearings

- (A) Save in unusual circumstances, appeal hearings will take place online.
- (B) The Secretary will write, ordinarily no less than one week in advance to all parties to a hearing, providing them with the link to the online meeting and all relevant paperwork. It is the obligation of all parties to ensure that they attend on time. A case may be decided in the absence of one or more parties if they do not attend on time.
- (C) The members of the AAC that will decide on a particular case shall carefully review all paperwork in advance of the hearing. In general, the AAC shall have preliminary discussions about the case immediately prior to the hearing (albeit that, as outlined above, certain decisions in relation to the case may be made electronically and in advance of the hearing).
- (D) There is no set or fixed procedure as to how a hearing shall proceed, but rather this shall be at the discretion of the Chair in an individual case. In all cases, and save for matters that have previously been decided by the AAC in advance of the hearing, the Chair shall ensure that both the appellant and the respondent(s) are given the reasonable opportunity to present their respective cases, and to respond to the case made by the other. Any member of the AAC may ask any question of either the appellant or the respondent or any witness called by either.

## 7. Grounds for Appeal

### Academic Appeals

In the case of an Academic Appeal against the consequences of a decision made by a Court of Examiners or the examiners of a research thesis:

- (A) The AAC is confined to considering cases brought pursuant to one of the three grounds of appeal listed in Para 70 of Part II and Para 57 of Part III of the Calendar.
- (B) The AAC is also bound by the Academic Appeals Policy and the accompanying guidelines.
- (C) Where an *ad misericordiam* case is brought in relation to the health of the student and it is unsupported by sufficient or adequate medical evidence (as outlined in the guidelines attached to the Academic Appeals Policy) then there shall be a strong presumption against hearing or granting the appeal. If no supporting medical evidence is submitted, then there is a strong presumption that the appeal shall be rejected without a hearing.
- (D) More generally, there is a strong presumption against granting an appeal pleaded on *ad misericordiam* grounds, where the case made by the appellant is at odds with any aspect of the Academic Appeals Policy and the accompanying guidelines.
- (E) The AAC will not hear an *ad misericordiam* appeal based purely on the gravity of the impact on the student of the results that they were awarded or the consequences of those results. In other words, the fact that a student may lose job opportunities/a postgraduate course place, or believes that their transcript is undermined because they have not obtained a higher mark or higher degree classification, can never ground an academic appeal. An appeal brought on these grounds will always be struck out without being heard.
- (F) Where an appellant brings a case claiming that the regulations of the College have not properly been applied in her or his case, then it shall be necessary for that appellant to identify the regulation that is claimed to have been misapplied and to show *how* it was misapplied. If, an appeal is brought claiming that the regulations of the college have not properly been applied in the student's case, but s/he fails, in the appeal documentation to identify the regulation that is claimed to have been misapplied and to show *how* it was misapplied, then there shall be a strong presumption that the appeal shall be rejected without a hearing.

## 8. Student Capacity (Fitness to Study) appeals

In the case of appeals against the Decision Makers pursuant to Student Capacity (Fitness to Study) Policy:

- (A) The AAC may consider cases where the student wishes to make representations in relation to the decision of the Decision Maker
- (B) The AAC is bound by the relevant provisions of the 2010 Consolidated Statutes of the University of Dublin and Trinity College Dublin (“the 2010 Statutes”) and the Student Capacity (Fitness to Study) Policy.

## 9. The Decision

- (a) Following the hearing, the AAC shall discuss the matter and seek to come to a decision in relation to whether and on what basis to grant the appeal. If the AAC is not unanimous on the matter, then the decision shall be made on the basis of a majority verdict. Should the AAC be tied, then the Chair shall have a casting vote.
- (b) The Chair shall write a decision document in the case outlining the verdict and giving reasons for the decision. Whereas the decision is written by the Chair (nor, save in unusual circumstances shall it be necessary for the decision to be reviewed by other members of the AAC) it shall stand as the decision of the AAC. There are no formalities connected with the writing of the document, which shall be at the discretion of the Chair.
- (c) The Secretary shall then send the decision, electronically, to the appellant and all other parties to the matter. Should the decision involve *rejecting* the appeal, the appellant shall be informed that it may be appealed to the Visitors. The Secretary shall inform the Academic Registry and the Senior Tutor/ the Postgraduate Advisory Service, as appropriate of all decisions made.

## 10. Reliefs.

### Academic Appeals

Almost invariably, in the case of academic appeals brought against the consequences of a decision by a Court of Examiners/ the examiners of a research thesis the reliefs sought from the AAC will involve some dispensation from the normal regulations of College. On the other hand, there are some reliefs that the AAC cannot and will not grant. Should the appellant seek such reliefs then the appeal will be rejected without being heard. These include:

- (a) Any application that directly or indirectly seeks for a mark or grade classification that has been awarded by a Court of Examiners<sup>3</sup>/ the examiners of a research thesis to be altered.
- (b) Any application that seeks to set aside any other decision of a Court of Examiners/ the examiners of a research thesis (save by reference to a claim that, in its processes, the Court of Examiners/ examiners acted in breach of a college regulation, or other than in accordance with the right to fair procedures). An example of such an application is one where a Court of Examiners has decided in favour of discretionary increasing of any mark, including of a 'fail' mark to a pass or qualified pass level.
- (c) An application that seeks permission for a student to repeat a component of their course for which the Court of Examiners has awarded them either a passing grade or a qualified pass, in order that they may receive a higher mark.
- (d) An application seeking that a student should be permitted to progress into the next year of their course if they have not passed sufficient credits to rise from the previous year.
- (e) An application that seeks any relief that involves altering the prescribed assessment modalities in any module (i.e., if a module requires a student to submit an essay and sit an exam for example, the AAC will never direct that a student should be assessed in another fashion).
- (f) An application seeking 'special exams' or other forms of assessment outside of the annual or supplemental sessions to be set for a student.

## 11. Student Capacity (Fitness to Study) Appeals

Having taken all information into account, including the input of such persons as it deems necessary (including the Student Capacity Advisory Group, where appropriate), to establish and consider the facts, the AAC shall take such action as is appropriate in the circumstances, including, but not limited to:

- (A) Upholding the decision(s) of the decision maker(s) in their entirety,
- (B) Upholding the decision(s) of the decision maker(s) in part
- (C) Amending the decision(s) of the decision maker(s)
- (D) Vacating the decision(s) of the decision maker(s)
- (E) Require the student to provide a letter of certification pursuant to the certification section of the 2010 Statutes

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<sup>3</sup> In rare circumstances, the AAC may hear appeals challenging the decision of an examiner to impose a penalty for late submission of a piece of work or some other reason, and even though the Court of Examiners has awarded a final grade that incorporates that penalty