



Guidance Note regarding Completion of Procedures Letters

May 2010

1. Introduction

Under our Rules a university must issue a Completion of Procedures Letter to a student promptly after any of its internal processes have been completed. The definition of “internal complaints procedures” in our Rules includes procedures concerning student complaints, academic appeals, disciplinary matters, student accommodation, and breaches of codes of conduct and regulations. However this is not an exhaustive list.

Where appropriate, and for ease of reference, we use the word ‘university’ throughout this Guide to include all participating institutions.

A template for Completion of Procedures Letters, which sets out all the information which should be included, is attached to this Note.

The issue of a Completion of Procedures Letter serves four main purposes:

- It fixes the date when the student completes the university's internal complaints procedures;
- It clarifies the issues considered by the university under those procedures;
- It establishes the timescale for bringing a complaint to the OIA;
- It advises the student of the possibility of bringing a complaint to the OIA.

The purpose of this Guidance Note is to explain to users of the Scheme how and when universities should issue Completion of Procedures Letters. This note supersedes previous OIA guidance about Completion of Procedures Letters, and should be read in conjunction with the rules of the OIA Scheme.

2. Content of the Completion of Procedures Letter

The Completion of Procedures Letter should be headed as such, so it is clear to the student that s/he has completed the university's procedures.

The information in the Completion of Procedures Letter helps us to ensure that the complaint made to the OIA reflects the issues the university has considered.

The Completion of Procedures Letter should contain:

- A summary of the complaint or appeal the student has made to the university;
- The title of the regulations/procedures which were applied;

- A summary of the issues considered at the final stage of the internal complaints procedures;
- The final decision taken by the university;
- The reasons for that decision;
- Information about the role of the OIA.

Universities may also find it helpful to include a summary of issues which were raised but not pursued by the student, to identify those issues which have not completed its internal procedures.

It is essential that the Completion of Procedures Letter makes it clear that if the student wishes to complain to the OIA the Scheme Application Form must be received by the OIA no later than three months after the date of the Completion of Procedures Letter. To avoid any ambiguity, the university's Completion of Procedures Letter should state the date by which the OIA should receive the student's Scheme Application Form. For example, if the Completion of Procedures Letter is dated 7 January, the Completion of Procedures Letter must state that it should be received in this Office on or before 7 April.

Completion of Procedures Letters (and university regulations/procedures) should not give the impression that the OIA is the final stage of the university's own internal procedures or that the OIA is an appeal body; rather they should explain that the OIA is an independent review scheme.

3. Format of the Completion of Procedures Letter

The summary of the student's appeal or complaint, and its outcome, may be contained in a separate document, such as a report of an appeal panel hearing, provided that this document is clearly identifiable, sets out the required information and makes it clear that the student should expect to receive a Completion of Procedures Letter imminently. The Completion of Procedures letter should refer to the outcome letter.

Some universities incorporate the Completion of Procedures Letter in a letter to the student notifying him or her of the outcome of an investigation or an appeal. This is acceptable to the OIA, providing that the Completion of Procedures Letter is issued promptly.

It is also acceptable to send the Completion of Procedures Letter by e-mail, provided that an electronic version of our leaflet "Introduction to the Student Complaints Scheme" is attached to the email, or it includes a link to the leaflet on our website. This is currently at <http://www.oiahe.org.uk/downloads/OIA-Leaflet-2008.pdf>; but the university should check that this link is correct at the time the email is sent. The electronic version of the Completion of Procedures Letter must be dated.

4. When should a Completion of Procedures Letter be issued?

The Completion of Procedures Letter should be issued automatically after the completion of internal processes, that is, when the university issues its final decision, if the complaint or appeal is not upheld. If the complaint or appeal is upheld, or partly upheld, the university should tell the student that s/he can ask for a Completion of Procedures Letter if s/he remains dissatisfied.

Students should not be required to request a Completion of Procedures Letter or to go through a further stage to obtain one.

Students should not be required to follow two sets of procedures to obtain a Completion of Procedures Letter. For example, if a student has a complaint about how the final stage of the university's appeals procedure was handled, including complaints about delay, s/he should not then be required to make a complaint under the university's complaints procedure before being issued with a Completion of Procedures Letter.

Completion of Procedures Letters should not be issued while there are still outstanding matters for the university to consider, for example, where it is awaiting reconsideration of the student's results by an examination board following a successful appeal.

Where a student makes a complaint about substantive matters which happened more than three years ago, a Completion of Procedures Letter should be issued setting out a brief history of the complaint. If the university has reviewed the complaint within the last three years, it should mention this in the letter. The OIA will decide whether the complaint can be considered under the rules of the Scheme.

5. What if the university has made an offer to the student in an attempt to settle the complaint?

If the student accepts the offer then a Completion of Procedures Letter may be issued confirming the settlement. It is very unlikely that we would seek to interfere in such circumstances. However each complaint will be considered on its merits.

If the student rejects the offer or has not responded by the date the offer expires (or within a reasonable period if no date for acceptance has been given), a Completion of Procedures Letter should be issued. This should include a summary of the settlement proposals. (If they were made on a without prejudice basis this should be brought to our attention.) The Completion of Procedures Letter should state whether or not the university is willing to keep the offer open while the OIA considers the complaint.

6. When have internal complaints procedures been exhausted?

In most cases it will be clear that the university has made its final decision and that its internal procedures have been completed. However, there are some circumstances where this is less clear. We set out below some such scenarios and whether Completion of Procedures Letters should be issued.

6.1 The university makes a decision that there are no grounds for the complaint / appeal to be escalated to the next stage of its procedures

A Completion of Procedures Letter should be issued as the student has exhausted the internal procedures.

6.2 A student initiates, or attempts to escalate, a complaint or appeal outside the university's time limits

If the university's decision is that the complaint or appeal (or attempted escalation to the next level) is out of time then a Completion of Procedures Letter should be issued explaining why it is out of time and referring to the relevant regulations. (If the student then complains to the OIA, our review would normally be restricted to considering whether the university's decision to reject the matter as out of time is reasonable and in accordance with its procedures. If we find a complaint to be justified in these circumstances, the likely outcome would be that we would send the case back to the university.)

6.3 A student does not escalate his/her complaint or appeal to the next stage

It is not necessary to issue a Completion of Procedures Letter automatically if the student does not seek to escalate a complaint or appeal because the internal complaints procedures will not have been exhausted. There are two caveats to this:

- a. First, where the student requests a Completion of Procedures Letter (for example, because s/he believes that s/he had a reasonable explanation as to why s/he did not attempt to escalate the matter). In this case the university should issue one, but should indicate in the letter that the student is out of time under its regulations. (Again, our review would normally be restricted to considering whether the decision to reject the matter was reasonable and in accordance with its procedures – see 6.2 above.)
- b. Second, where the university's regulations provide that the student may only take the appeal or complaint to the final stage of the university's procedures on narrow procedural grounds e.g. by alleging a procedural irregularity in the making of the substantive decision.

The university should explain to the student, in the letter setting out its substantive decision on the appeal or complaint, that (1) there is a further stage of procedures, and the grounds upon which the decision can be challenged; and (2) if the student does not consider that s/he has grounds to proceed to the further stage, then s/he can ask the university for a Completion of Procedures Letter if s/he wishes to bring a complaint to the OIA.

The decision letter should explain the purpose of the OIA Scheme and/or enclose a copy of the OIA's leaflet about the Scheme, and refer to the 3 month deadline for referring a complaint to the OIA. It should make it clear that the student has at least one month to request a Completion of Procedures Letter after the issue of the decision letter.

The decision letter should make it clear that if the student does not have grounds to invoke the final procedural stage, then the university's procedures are complete. The Completion of Procedures Letter should be issued within two weeks of receipt of the student's request. If the university considers that the student had established grounds to proceed to the final stage then it should draw that to the student's attention.

This is to ensure that students are not deterred from bringing their complaints to the OIA by the existence of a final-stage procedural barrier. The OIA does not look only at procedural irregularities, but also looks at the reasonableness of the university's substantive decision and students must be given the opportunity to bring their concerns about the substantive decision to the OIA. The OIA can still consider procedural matters which the student had not identified as part of our review.

6.4 The university reaches a final decision which results in the exclusion or suspension of a student under any of its procedures, including disciplinary procedures

A Completion of Procedures Letter should be issued.

6.5 The university reaches a final decision which results in a student being removed from university accommodation

A Completion of Procedures Letter should be issued.

6.6 Where a student makes both a complaint and an appeal about the same issue

The university should issue a Completion of Procedures Letter in respect of each procedure, cross-referencing as appropriate. The student should be reminded that the three month time limit applies to both cases. We may decide to suspend our consideration in order to review both cases together.

7. Complaints referred back to the University by the OIA

Where the OIA makes a Recommendation to the university that it should reconsider a complaint or an appeal, the university should issue a new Completion of Procedures Letter after it has reconsidered the matter.

8. Courses leading to an award of the University

The OIA covers complaints by students who are studying in Further Education and other colleges for an award made by a university. In these instances a complaint / appeal may be escalated to the university for consideration as the final stage of the college's procedures.

Where a university is issuing a Completion of Procedures Letter in relation to a complaint that has come from a student at an FE or other college, it is particularly important for the Completion of Procedures Letter to refer to the Regulations under which this was considered, setting out clearly what the university considered at the final stage (as well as the issues addressed by the college).

It is also helpful for the Completion of Procedures Letter to refer to any agreement between the college and the university that sets out the responsibilities of each institution.

This helps us to focus our review on what the university looked at (or should have looked at), rather than underlying issues that may be outside our jurisdiction.

9. Determining eligibility

A university should issue a Completion of Procedures Letter even where it considers that a complaint is ineligible under the Rules of the OIA Scheme; for example, because it considers that the complaint relates to the university's academic judgment, or that the student has not been materially affected. This is because it is for the OIA to determine eligibility under the Scheme. However, it may be helpful in these circumstances for the university to explain in the Completion of Procedures Letter why it considers the complaint to be ineligible, making it clear that the decision is the OIA's.

Under our Rules, a student is defined as a student or former student. Therefore Completion of Procedures Letters should still be issued where the student is no longer registered at the university, although the university should comment if it considers the complaint to be time-barred or otherwise outside of its jurisdiction.

Occasionally a student may complain about a matter on which the university has no procedures covering the situation. In such cases the university should issue a Completion of Procedures Letter, explaining how it has dealt with the complaint.

10. The OIA's discretion

Under our Rules we have the discretion to take on a complaint where we consider there is good reason to do so, even where a Completion of Procedures Letter has not been issued (for example, where the university has unduly delayed issuing a Completion of Procedures Letter, or has refused to do so). Clearly we would prefer the university to issue a Completion of Procedures Letter because this should clarify the issues we need to look at. In practice, we exercise this discretion rarely.

The OIA will not normally consider a complaint unless the student's Scheme Application Form is received in this Office within three months of the date of the Completion of Procedures Letter. However the OIA does have discretion to accept complaints out of time. We would need to be satisfied that there is an acceptable reason why the complaint was not received within the deadline. Examples might be where: the student has been incapacitated; the Completion of Procedures Letter did not state the deadline; or the student posted the Scheme Application Form to the OIA in good time. This discretion is exercised infrequently, and only where there is supporting evidence. If the OIA accepts a complaint after the three month deadline, it will inform the university and the student of its reasons for doing so.

11. Where a student does not engage with the University's internal complaints procedures

Where a student requests a Completion of Procedures Letter because s/he wants to bring the matter to the OIA without having engaged with the university's procedures and the university therefore considers that the internal complaints procedures have not been exhausted, it should respond promptly to the student, setting out clearly the next steps s/he can take to progress the complaint, and any deadlines that apply.

12. Internal authorisation

We have seen complaints where Completion of Procedures Letters have been issued prematurely by members of staff who are not authorised to do so. Universities should have procedures in place to ensure that Completion of Procedures Letters are issued only by authorised officers. It is not necessary to limit authorisation to the OIA Point of Contact, but the Point of Contact should ensure that Completion of Procedures Letters are issued in accordance with this Guidance.

13. Other circumstances

This note cannot deal with all the queries that arise about issuing Completion of Procedures Letters. If you have a query that is not answered by this note, please check our website www.oiahe.org.uk or contact our Enquiries Team on 0118 959 9813.

14. And finally

Even after a Completion of Procedures Letter has been issued and a complaint made to the OIA, a university may still seek to resolve the complaint by offering to reconsider the matter or proposing a settlement. Should the university wish to do so, it should inform us as soon as possible, as we may suspend our review. It should also keep us informed of progress and the final decision. We welcome this approach and encourage all members of the Scheme to be proactive in seeking to resolve complaints.