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PUBLICATION PROCESS AND RULE CHANGES ISSUE

1. The OIA Rules have been amended to facilitate the new arrangements for publishing summaries of selected OIA Formal Decisions by name of University (but not complainant) in relation to complaints received by the OIA from 1 April 2012. Case summaries naming universities are unlikely to be published before Summer 2012.
2. The Rules changes allow the OIA (as envisaged) to: publish selected summaries of OIA Formal Decisions by name of university, using the public interest test set out in the Pathway 2 Consultation; and send an Annual Letter (published on the OIA web-site) to each Scheme member setting out core information about its complaints and appeals handling record.

Rules Changes

3. The changes to the Rules are set out in Annex 1 to this document, together with a complete copy of the amended Rules. It should be noted that further changes to the Rules are likely to be implemented during 2012/13 as a result of the review of the Rules currently being undertaken following the Pathway Consultation.

Guidance on Publication

4. Guidance on the publication of summaries of formal decisions of the OIA is set out in Annex 2 to this document.

Next Steps

5. This Memorandum and its annexes will be published on the OIA's website on 31 January 2012.
6. From 1 April 2012, the OIA will begin selecting decisions for summary and publication, applying the Public Interest Test (see Annex 1 and 2). Those decisions will relate only to complaints received by the OIA from 1 April 2012.
7. Publication of the summaries will be in accordance with the guidance issued from time to time by the Independent Adjudicator. The current guidance is set out in Annex 2.
8. The OIA will begin to send Annual Letters to all universities which participate in the Scheme during 2012. Guidance relating to the publication of Annual Letters is set out in Annex 2.



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Annex 1

THE OFFICE OF THE INDEPENDENT ADJUDICATOR FOR HIGHER EDUCATION
("THE COMPANY")

STUDENT COMPLAINTS SCHEME (MAY 2008) ESTABLISHED BY THE COMPANY
("THE SCHEME")

AMENDMENT TO THE RULES OF THE SCHEME

RESOLUTION OF THE BOARD OF DIRECTORS OF THE COMPANY ("THE
BOARD") DATED 9 DECEMBER 2011

WHEREAS A) "HIGHER EDUCATION: STUDENTS AT THE HEART OF THE SYSTEM", THE WHITE PAPER ISSUED BY THE SECRETARY OF STATE FOR BUSINESS, INNOVATION AND SKILLS, CM 8122 OF JUNE 2011 CONFIRMED (AT PARAGRAPH 3.24) HM GOVERNMENT'S SUPPORT FOR THE COMPANY'S DRIVE FOR INCREASED TRANSPARENCY BY PUBLISHING SUMMARIES OF THEIR DECISIONS; B) THE BOARD, HAVING CONSIDERED DIFFERENT MODELS FOR PUBLICATION, SET OUT IN THE COMPANY'S PATHWAY CONSULTATION: SECOND ROUND 2010, HAS ACCORDINGLY DECIDED TO IMPLEMENT ARRANGEMENTS FOR THE PUBLICATION OF SUMMARIES OF THE COMPANY'S DECISIONS UNDER THE SCHEME ON A SELECTIVE BASIS; AND C) IMPLEMENTATION OF THESE ARRANGEMENTS REQUIRE THAT THE RULES OF THE SCHEME ARE AMENDED,

IT IS HEREBY RESOLVED that the Rules of the Scheme be amended as follows:

- 1. In Section 7 ("The Formal Decision and any Recommendations") there shall be added the following new rule 7.8 –**

"7.8 The Independent Adjudicator shall in accordance with this rule from time to time publish summaries of Formal Decisions (and any accompanying Recommendations) and which:

7.8.1 in the opinion of the Independent Adjudicator it is in the Public Interest to publish; and

7.8.2 were made on a complaint whose duly completed Scheme Application Form shall have been received on or after 1 April 2012."

- 2. In Section 11 ("Further Powers and Duties of the Independent Adjudicator") there shall be added:**

2.1 the following new sentence to rule 11.2 – *" The Independent Adjudicator may provide information concerning the operation of the Scheme, including information on complaints received and/or reviewed and on Formal Decisions and Recommendations made and on related matters of compliance or non-compliance,*

including where he/she thinks fit, in relation to any individual complaint, Formal Decision and Recommendation, to any body which in the view of the Independent Adjudicator has a relevant right or interest in receiving such information. In particular the Independent Adjudicator shall co-operate with bodies engaged in regulating, financing or supervising standards within the higher education sector in any part of the United Kingdom. The information provided under this rule 11.2 shall, in relation to personal data, comply with applicable data protection legislation."

2.2 the following new rule 11.6: *"The Independent Adjudicator shall issue guidance from time to time as to the timing and content of any publication under rule 7.8 and the medium for publication and the opportunity for a HEI or Non-qualifying Institution to make comments on a proposed publication (which shall not be binding on the Independent Adjudicator). The Independent Adjudicator shall have power to make all decisions for the purpose of rule 7.8. The right to publish summaries of Formal Decisions (and any accompanying Recommendations) under rule 7.8 shall be in addition to the publication rights under rules 11.10 (now 11.11) and 11.11 (now 11.13)."*

2.3 the following new rule 11.12 – *"The Independent Adjudicator may publish an annual letter to each HEI and Non-qualifying Institution which has joined the Scheme setting out the number of complaints received by the OIA from that HEI or Non-qualifying Institution as the case may be and the outcome of complaints closed during that period, together with such other information as the Independent Adjudicator shall from time to time determine."*

2.4 the following new rule 11.14 – *"If requested to do so by the Independent Adjudicator, an HEI or a Non-qualifying Institution which has joined the Scheme shall compile and send to the OIA an annual return stating the number of Completion of Procedures Letters issued in the previous calendar year."*

5. in section 14 the following definitions shall be added –

*"**Public Interest**" means one or more of the following (i) publication which can be justified as highlighting either a significant act or omission of the HEI or Non-qualifying Institution and/or the impact of the case on an individual complainant or group of complainants, and/or (ii) publication which can be justified as drawing to the attention of HEIs and Non-qualifying Institutions, students' unions and students the import of the Formal Decision for the purpose of providing a wider understanding of the Scheme and its operation and/or good practice relating to complaints between students and their HEIs or Non-qualifying Institution and/or (iii) publication which can be justified as ensuring or improving continued public, user and stakeholder confidence in the transparency of the Scheme and the independent nature of decision-making under the Scheme"*



Annex 2

Guidance for the Publication of Summaries of Decisions and Annual Letters

Summaries of Decisions

- The university¹ to which each Formal Decision relates shall be named in the summary, but the student making the complaint shall not be named or identifiable. It will normally be the case that any other individual to whom reference is made in the summary shall not normally be identified by name. The length and content of the summary shall be such as in the view of the Independent Adjudicator fairly reflects the outcome of the OIA's review of the relevant complaint, including the Formal Decision, and the purpose of any Recommendation made.
- The parties shall be informed of the decision to publish a summary of a particular Formal Decision. There is no appeal against this decision.
- A draft of the text of the relevant summary shall be sent to the Point of Contact of the relevant university and to the student making the complaint. Each of the parties will have fourteen days to respond. The OIA shall consider any comments so made having regard to the purpose for which the summary is to be published. However the OIA shall not be obliged to take into account any comments in the final form of the summary that is published nor shall any of the parties be entitled to a right of reply in respect of the publication of the summary. The OIA will send the parties the final text before publication.
- The Independent Adjudicator shall be at liberty to decide the date, as well as the medium for publication. The summary will be published for such a period as the Independent Adjudicator decides is appropriate.
- Formal Decisions to be summarised will be selected from Not Justified, Partly Justified and Justified complaints. The summary will not normally be published until the university has complied with any Recommendations made, or indicated that it does not intend to do so.

¹ For ease of reference, we use the word 'university' throughout this document to include all participating institutions. A list of all participating universities can be found on our website (<http://www.oiahe.org.uk/about-us/list-of-hei.aspx>).

Annual Letters

- The OIA will write to universities at the beginning of each year asking for a record of the number of Completion of Procedures Letters issued in the previous year.
- This information, along with statistical information on the number and outcome of complaints received and closed during the previous calendar year together with an analysis of appropriate average data, will be collated and sent to universities in an Annual Letter.
- From 2013, the OIA will, where appropriate, provide an additional, constructive summary of themes and issues emerging from cases arising from each Scheme member in the Annual Letter. The Annual Letter may, where appropriate, also contain information on each university's engagement with the OIA through its outreach programme and consultations.
- Each Point of Contact will be sent a copy of the Annual Letter in draft form and will have 14 days to comment on any errors of fact. After 14 days the Vice Chancellor and Point of Contact will be sent the Annual Letter and a copy it will be placed on the OIA's website.

31 January 2012