

# New Rule and additional Rules for Large Group Complaints

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In this document we set out the text for the proposed new Rule and additional Rules for Large Group Complaints. The explanatory notes (boxed text) would form the basis for a guidance note to accompany the new Rules.

## New Rule 16A:

- 16A.1** We may publish additional Rules that apply to Large Group Complaints.
- 16A.2** For the purposes of Rule 16A.1, a Large Group Complaint means a complaint or series of related complaints that we can review under these Rules, brought by a significant number of students at a provider about the same event/s and/or issue/s.
- 16A.3** We will decide whether to look at a complaint under the Large Group Complaints Rules.

- The Large Group Complaints process is designed to manage complaints brought by groups of hundreds of students. Smaller groups will still be managed within our usual review process. We do not expect to use the process for complaints involving fewer than 100 students.
- The Large Group Complaints process is designed for complaints that are all about the same provider and the same or very similar issues, the students have been affected in the same way, and it is likely that if the complaints are found to be Justified or Partly Justified, the same remedy would apply. An example might be a group of students all studying the same course, in the same year, and at the same provider, who have all been affected by disruption in the same way. In some cases the complaints may be about more than one provider because the students are studying at one provider for the award of another provider.
- It will be up to us to decide whether to use the Large Group Complaints process, but we will not make that decision without discussing it with the provider and the students involved.

## Large Group Complaints Rules:

These additional Rules are made under Rule 16A of the Rules of the Scheme. They apply to Large Group Complaints. The Rules of the Scheme apply to Large Group Complaints except as set out in these additional Rules.

- Most of the Rules of the Scheme still apply to Large Group Complaints and are not affected by the additional Rules. So, for example, Rules 1, 2, 3, 4, 5 and 6, covering what we do, who can complain, higher education providers, and the complaints we can and can't review, are not affected by the additional Rules.

1. The Large Group Complaints Rules will apply to any complaint identified as part of a Large Group Complaint under Rule 16A.3 of our Rules.
2. We will not review a complaint unless the higher education provider has had the opportunity to look at the issues of the complaint first. We may decide to look at a complaint as part of a Large Group Complaint even if the student bringing the complaint has not complained individually to the provider.

- This additional Rule 2 changes Rule 7. Under the Large Group Complaints process, we will not review a complaint unless the provider has had the opportunity to look at the issues of the complaint first. That might mean that the provider has considered and responded to individual complaints from some but not all of the students in the Large Group. But if a provider has already reached a final position on the issues of the complaint it would not be necessary for the provider to consider an individual complaint about the same issue from other students before they joined the Large Group. This reduces the work involved for students and means that the provider will not have to process individual complaints about the same issues from large numbers of students.

3. We may set a date by which a student must complain to us in order for their complaint to be considered part of a Large Group Complaint. This deadline will be not less than four weeks from the date we set it.

- Rule 8 sets a time limit of 12 months within which students must bring their complaint to us. This additional Rule 3 allows us to set a shorter deadline for students who would like to be part of a Large Group Complaint.
- The 12-month deadline usually runs from the date of the provider's Completion of Procedures (COP) Letter, but under the Large Group Complaints process, some students might not have received a COP Letter. When we set a shorter deadline for joining the Large Group Complaints process, we will specify a date, giving students at least four weeks.

4. At any time we may decide that a student's complaint is not suitable for review as part of a Large Group Complaint. We will explain our decision to the student and the higher education provider.

5. If we decide that a student's complaint is not suitable for review as part of a Large Group Complaint we may review that complaint under our usual Rules.
6. If we decide that a student's complaint is not suitable for review as part of a Large Group Complaint, and not to review it under our usual Rules, the student and/or provider may ask us to reconsider that decision under Rule 10.6 of the Rules of the Scheme.

- Additional Rule 4 means that it is up to us to decide whether a student's complaint should be included in a Large Group Complaint – but if we decide not to include a complaint, we will always explain why to the student and the provider.
- Additional Rule 5 means that we may still be able to review the student's complaint even if we decide not to include it in the Large Group Complaint, if the complaint is something that we can review under our Rules (see Rules 2, 3, 4, 5, 6, 7 and 8).
- Additional Rule 6 means that if we decide that we can't review a complaint at all, then the student and the provider will still be able to ask us to reconsider that decision under Rule 10.6.

7. We will decide what information and documents we need to review the Large Group Complaint.
8. We will share information and documents with all the students in the Large Group Complaint and with the higher education provider.
9. We will give the students in the Large Group Complaint and the higher education provider the opportunity to comment on the information and documents we consider to be relevant to our decision.

- Additional Rules 7, 8 and 9 change the way we review complaints under Rule 12. Rule 11 will still apply to Large Group Complaints.
- Rule 11.1 says, "When we have decided that the complaint is one which we can review, we will decide how to conduct the review and whether we need any more information." That Rule will also apply to the Large Group Complaints process.
- We will share information we receive with the students and the provider. We will not share information where to do so would be a breach of data protection legislation and so we may share some information in anonymised or summarised form.
- We will give the students and the provider the opportunity to comment on any information or documents we consider to be relevant to our decision. But for the Large Group Complaints process to work effectively, we will need to be proportionate. For example, we won't expect every individual student to comment on all the information and documents we have shared. We will draw attention to the information and documents that we think are relevant to our decision.

10. We will discuss a suitable remedy for the complaint with the students and the higher education provider before we make any Recommendations.
11. We will notify the students in the Large Group Complaint and the higher education provider of our decision and the reasons for it, and any Recommendations we are making and the reasons for those Recommendations.
12. At any stage during our review we may identify what we consider to be a reasonable resolution to the Large Group Complaint and we may decide to conclude our review on the basis that the higher education provider has agreed to implement the reasonable resolution.

- Additional Rules 10, 11 and 12 change the way we issue our decision under Rules 13 and 14.
- Rule 13.1 says, “When we decide that we have all the information and evidence that we need to make a decision we will prepare and issue a Complaint Outcome.” Under the Large Group Complaints process, we will still make our decision once we have all the information and evidence that we need. Additional Rule 11 means that we will tell the provider and the students about that decision and any Recommendations we are making. But we will be making a decision relating to the whole Group, not individual decisions for each student. Rather than sending the decision out to each student, we may give the students in the Large Group and the provider access to a document or a recording setting out the decision.
- We will discuss a suitable remedy with the students and the provider when we are considering the complaint. When we intend to make practical Recommendations, for example, that the provider allows students to repeat part of their course, we will ask the students and the provider for their comments before we make our Recommendations.
- Additional Rule 12 is similar to Rules 16.1.2 and 16.1.3 which say that we may terminate our review if the provider has satisfactorily dealt with the complaint, or has made a reasonable offer to settle it. Additional Rule 12 means that, if we identify a reasonable remedy that fairly resolves the Large Group Complaint, and the provider agrees to implement it, we can decide to conclude our review on that basis, even if not all of the students agree to it.

13. Rules 15.2 and 15.3 of the Rules of the Scheme will not apply to Large Group Complaints.

- The Large Group Complaints process will not work effectively if every student, and the higher education provider, can apply individually to us to reopen our review. But we will always reopen a review if it comes to light that we have made an error that has seriously affected the outcome of our review. If a student or a higher education provider thinks this is the case then they can contact us to explain why, and we will consider it under our quality control processes.

**14.** We expect higher education providers to help us with the administration of our review of Large Group Complaints. This will include giving students information about the availability of the Large Group Complaint process.

- Sometimes providers might be aware of other students who have been affected by the issues raised in a Large Group Complaint and who might want to join the group, but the provider can't pass their details on to us for data protection reasons. In those cases, we wouldn't be able to correspond directly with those students and so we might ask the provider for help in contacting them. If those students then submit a Complaint Form to us, we will correspond with them directly.