

# Good Practice Framework

## Bias and the perception of bias

1. Bias is a tendency to treat one person or group, thing or point of view more or less favourably than another, especially in a way considered to be unfair. Bias can be deliberate, but it can also be unintentional.
2. Providers have a duty to act fairly which means that decision-making should be unbiased and should be seen to be unbiased.
3. Providers need to take steps to avoid actual bias and the reasonable perception of bias. They should consider whether the involvement of a particular individual could, intentionally or unintentionally, affect the fairness of the decision, or whether the student might reasonably think that it might. For example, a student may have concerns that a member of staff could not independently review a decision that their manager has reached.
4. It is a fundamental principle of fairness that no-one should be the judge of their own actions. Providers must consider bias for both decision-makers and investigators. Students must have confidence that evidence will be gathered fairly, and that an investigator will look for information which supports either side of an argument.
5. Our view is that investigators and decision-makers should not have been involved previously in the matters being considered in a student's complaint or appeal. This does not mean that every member of staff who has previously had any interaction with the student must be excluded from the process - in some cases staff members involved in the complaint or appeal might be able to help resolve it at an early stage. People who have been involved at a previous stage may also have a role in providing information or evidence to the investigation or decision makers.
6. Wherever possible, though, providers should not appoint as investigators or decision-makers staff who:
  - ◆ were directly involved in the delivery of the service complained about;
  - ◆ were directly involved in the assessment that is the subject of an academic appeal;
  - ◆ have previously investigated or reached decisions on complaints or appeals from the individual student, or disciplinary or fitness to practise matters involving the student;
  - ◆ have previously been the subject of a formal complaint from the student;
  - ◆ have a close personal connection to the student or to other people involved in the complaint or appeal;
  - ◆ have a personal interest in the outcome of any decision being made.

7. Sometimes it might not be possible to appoint an investigator or decision maker with no previous involvement in the student's case. This might be because the student may have made several previous complaints or appeals, or the provider has a small number of staff members to draw on. In these circumstances, the provider should consider carefully how best to make sure that the student has confidence in the investigation and decision-making process. For example, the provider could talk to the student about what would help them have confidence in the process, or could bring in someone independent to oversee the investigation or attend a decision-making panel.
8. In some circumstances, for example, when a student has provided new information, it is appropriate to ask a decision-maker or decision-making panel whether the new information would have made a difference to their decision. But this won't be appropriate if there is a concern or complaint about how the previous decision-maker approached the case or what they have done, or the previous decision involved judgments about the credibility of the student.
9. It is good practice to give students an opportunity to raise concerns about the individuals looking at their case as early as possible so that the provider can consider whether the student has a reasonable basis for their concerns.
10. Sometimes it is necessary to take action to remove or reduce barriers that might be making it more difficult for some students to access a process or service. For example, providers need to make reasonable adjustments to support disabled students to access learning, facilities and processes and this may mean that those students are treated more favourably than others. Treating everyone fairly doesn't always mean treating everyone the same. Removing barriers that affect some students is not the same as bias.

## Office of the Independent Adjudicator for Higher Education

Second Floor Abbey Wharf  
57-75 Kings Road  
Reading  
Berkshire  
RG1 3AB



office of the  
independent  
adjudicator

0118 959 9813  
enquiries@oiahe.org.uk  
oiahe.org.uk

**Revised December 2022**