

Representations against QAA's advice for DAPs assessments in England

1 A representation is a challenge by a provider against QAA's intended advice to the Office for Students (OfS) on the outcome of Degree Awarding Powers' (DAPs) assessments. Representations are submitted under this procedure. This procedure is an internal QAA process and does not require any legal knowledge or representation.

2 This procedure applies to Degree Awarding Powers' (DAPs) assessments in England, referred to QAA by the OfS on, or after, 1 April 2018. The procedure should be read in conjunction with *Degree Awarding Powers in England: Guidance for Providers on Assessment by QAA*, October 2018, published by QAA.¹

3 A separate representations procedure applies to applications for DAPs from providers in Scotland, Wales and Northern Ireland; and applications in England made before 31 March 2018.

4 QAA does not make the ultimate decision on DAP authorisations although is concerned to ensure that the advice it provides to the OfS on DAPs assessments is reliable, consistent and evidence-based. Therefore, in the event that a provider has concerns about the intended advice being given on its assessment, it may make written representations to QAA on the grounds specified in this procedure before the intended advice is finalised. This provides an opportunity for QAA to reconsider its advice. The OfS makes the final decision on DAPs authorisations.

5 At identified stages during the DAPs assessment process, providers will be invited to submit an optional commentary for consideration to assist the Advisory Committee on Degree Awarding Powers (ACDAP) in formulating its advice. Optional commentaries are distinct from representations, in that opportunities for their presentation are available at stages preceding the determination of QAA's internal advice to the OfS.

6 Representations are distinct from complaints. Complaints are an expression of dissatisfaction with services that QAA provides, or actions that QAA has taken. This procedure is not designed to accommodate or consider complaints. Where a complaint is submitted with a representation submission, its consideration is stayed until the completion of the representation procedure, in order that the investigation of the complaint does not prejudice, and is not seen to prejudice, the handling of the representation.

¹ www.qaa.ac.uk/en/reviewing-higher-education/degree-awarding-powers-and-university-title/guidance-and-criteria/applicants-in-england

Grounds for representations

7 Representations can be lodged on the following grounds only: that the intended advice is 'factually inaccurate' or 'compromised by a serious procedural or other irregularity'. Representations must state clearly and concisely the respects in which the provider believes that QAA's intended advice is:

- (a) **Factually inaccurate** - because it is based on information that is unreliable or wrong.
OR
- (b) **Compromised by a serious procedural or other irregularity** - because QAA failed to carry out agreed procedures, or exceeded its powers, as outlined in the published Guidance for Providers, in such a way that the legitimacy of its advice is called into question.

QAA's intended advice is factually inaccurate:

8 Representations on the grounds that QAA's advice is **factually inaccurate** must be substantiated with evidence which objectively supports the allegation that the intended advice falls into one or both of the following categories:

i **Incorrect information:**

- the intended advice was informed by information or evidence that was, at the time of consideration, in any way inaccurate, and the inaccuracy of that information or evidence is demonstrable
and
- the intended advice might have been different if accurate information or evidence had been considered in place of that inaccurate information or evidence
and
- there is an explanation as to why the correct information was not made available.

OR

ii **Incorrect consideration:**

- the intended advice is not aligned to the OfS's criteria for degree awarding powers.

9 Submissions relying solely on opinion or disagreement to substantiate the allegation that the intended advice is factually inaccurate will not be accepted.

QAA's intended advice is compromised by a serious procedural or other irregularity:

10 Representations on the ground that the intended advice is **compromised by a serious procedural or other irregularity** must be substantiated with evidence which objectively supports the allegation that:

- an irregularity can be specifically identified in the processes leading to the intended advice

and

- the irregularity is 'serious', in that it has, on the balance of probabilities, detrimentally affected the legitimacy of the intended advice.

11 Submissions must include details of the alleged procedural irregularity.

Submitting representations

12 Representations, unlike optional commentaries, are formal, written responses from providers submitted further to receipt of QAA's intended advice to OfS before it is finalised.

13 Representations are heard by the QAA body to which the body responsible for formulating the intended advice is accountable. Representations must be made in writing and may be submitted by a provider to the appropriate QAA body in the circumstances below.

Representations to ACDAP

(a) For a New DAPs application, QAA advises, at the **end of year one or year two of the probationary period**, that the provider is not setting and maintaining academic standards securely, and/or has made insufficient progress with its New DAPs plan.

OR

(b) For a Full DAPs application, QAA advises at the **end of the initial assessment for Full DAPs** that the provider's self-assessment is not suitable.

Representations to the QAA Board

(c) For a New DAPs application, QAA advises that the **outcome of the New DAPs test** is that the provider is not ready.

OR

(d) For a New DAPs application, QAA advises, at the **end of the probationary period**, that the provider does not meet some or all of the DAPs criteria and/or does not meet the requirements for quality and standards.

OR

(e) For a Full DAPs application, QAA advises, at the **end of the Full DAPs assessment**, that the provider does not meet some or all of the DAPs criteria and/or does not meet the requirements for quality and standards.

OR

(f) For a variation of powers' assessments, QAA advises, at the **end of the assessment for variation of powers** from time-limited to indefinite, that the provider does not meet some or all of the DAPs criteria and/or does not meet the requirements for quality and standards.

OR

(g) For a regulatory intervention assessment, QAA advises, at the **end of the assessment for a reportable event**, that the provider does not meet some or all

of the DAPs criteria and/or does not meet the requirements for quality and standards.

14 Providers must notify QAA via the Secretary to ACDAP of their intention to submit representations within five working days of receiving notification of QAA's intended advice. The provider then has a further 15 working days to submit its representation. Representations must be made in writing. While the notified intention to submit representations will not be considered binding on the provider, it serves to alert QAA to the imminent submission of representations, and to enable QAA to make the necessary preparations for the representations to be considered.

15 All representations must be made in writing within 15 working days of the provider's notification of its intention to make representations.

16 Representations to ACDAP (categories (a) and (b) of 'Submitting representations', above) should be addressed to the Secretary to ACDAP, who will oversee the conduct of the representation procedure.

17 Representations to the QAA Board (categories (c) to (g) of 'Submitting representations', above) should be addressed to the Head of Governance, who will oversee the conduct of the representation procedure.

Communication

18 When a provider submits a representation, contact with any DAP experts, assessment teams or other QAA officers associated with the assessment, ceases immediately and the provider's main contacts become either the Secretary to ACDAP (categories (a) and (b) of 'Submitting representations', above) or the QAA Governance team (categories (c) to (g) of 'Submitting representations', above).

19 Other QAA staff and reviewers should not enter into any direct communication with the provider after the receipt of a representation submission and should forward any communication that they do receive to the individual or team specified at paragraph 18.

Determining representations

20 In determining whether the provider's representations are accepted, ACDAP/the QAA Board ('the body hearing the representations') will consider:

- the intended advice
- and**
- any report intended to inform the advice
- and**
- the provider's representations and any supporting evidence.

21 The body hearing the representations may request additional documentation to aid its consideration. In the interest of transparency, only documents that have been identified to the provider in advance will be considered.

22 Representations will either be submitted to the next scheduled meeting of the body hearing the representations, or, where waiting for the next scheduled meeting would, in the opinion of QAA, present an unreasonable delay or give insufficient time for the members of

the body hearing the representations to give due consideration to the documentation, at an extraordinary or virtual meeting convened for the purpose of considering the representations. The provider will be informed of the timescale for its representation to be heard. The QAA Board normally meets three times a year and ACDAP normally meets six times a year: the scheduled dates for meetings are available on the QAA website.

23 The body hearing the representations will decide, based on its consideration of the documentation specified and on the balance of probabilities, whether the representations are rejected or upheld. A majority decision will determine the representations.

24 The outcome of the representations' procedure will be communicated to the provider within 10 working days of the decision. The OfS will be informed of the outcome.

Representations that are not upheld

25 If the body hearing the representations concludes on the balance of probabilities that the intended advice was neither factually inaccurate nor compromised by a serious procedural or other irregularity, it shall determine that the representations are not upheld, and that no reconsideration of the advice shall take place.

Upheld representations

26 If the body hearing the representations concludes, on the balance of probabilities, that the intended advice was factually inaccurate, or was compromised by a serious procedural irregularity, it shall determine that the representations be upheld, and that the advice should be reconsidered.

27 Where the body hearing the representations concludes that the advice shall be reconsidered, it shall consider the extent or seriousness of the reason that the representations are upheld, and may direct that the whole advice be reconsidered, or that particular areas of the advice be reconsidered. The time period for advice to be reconsidered will vary depending on the circumstances, although would not normally be less than eight weeks.

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