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The Mentoring  
School

## Appeals Policy

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### Aims

This policy is designed to lay out the procedures for appealing against a training/qualification decision made by the company.

### Types of appeal

This policy covers three types of appeal:

- Appeals against results,
- Appeals against malpractice decisions,
- Appeals against access arrangement or special consideration decisions.

### Appeals against results

#### Who can appeal?

- The learner themselves who historically undertook training with us directly (referred to as Learners)
- A head of centre (referred to as Centres)

Please note all learners who undertook training through a centre must contact their centre. There is an Appeal fee liable.

#### When can appeals be made

Learners and centres can appeal results within 2 weeks of receiving the results.

#### On what grounds can an appeal be made?

Appeals must focus on whether we have used procedures that are consistent with the requirements of our awarding bodies and good practice, and whether it has applied its procedures properly and fairly in arriving at their judgement.

#### How to appeal

1. Decide on what grounds you want to appeal and which procedures have not been properly and fairly applied.
2. Complete and return the form in the appendix.
3. The Training Manager will decide if the appeal will be accepted, this will be based on the grounds, the timescale of the appeal and whether the results have already been investigated.
4. You will be told of the outcome of this decision.

## What happens next?

If it is the first appeal you have made against a decision, then a Stage 1 appeal will be made, if it is your second, then the Stage 2 process will be followed.

## Further appeals

For centres or private candidates in England, where dissatisfaction remains with the decision of the Stage 2 appeals panel, an appeal may be made to the relevant Awarding Body.

For Open Awards accredited qualifications, appeals will be handled by The Mentoring School. If, after a Stage 2 appeal, dissatisfaction remains, an appeal can be made in writing and should be addressed to the Head of Quality and Standards at the following address:

Open Awards  
Estuary Commerce Park  
17 De Havilland Drive  
Speke  
Liverpool  
L24 8RN

Appeals to the awarding body must be made within three weeks of receipt by the appellant of the draft report on the Stage 2 Appeal issued by us.

If the awarding body find any failing in our Policies or Procedures, then the Training Manager will ensure due regard is given and reported to the Governing Body for action.

## Appeals against malpractice decisions

If, after the processes described in the Malpractice and Maladministration Policy, the Learner, Centre, member of staff or third party may wish to appeal a decision.

## When can appeals be made

The affected party can appeal results within 2 weeks of receiving the results of the Malpractice decision, appeals may not be made on their behalf.

## On what grounds can an appeal be made?

The following are reasonable grounds for appeal:

- the incident was not dealt with in accordance with the published procedures;
- the decision was unreasonable in light of the evidence presented to the Malpractice Committee;
- further evidence (including medical evidence) has come to light which changes the basis of the awarding body's decision;
- the sanction imposed is disproportionate to the seriousness of the malpractice.

The following do not, by themselves, constitute grounds for an appeal:

- the individual did not intend to cheat;
- the individual has an unblemished academic record;
- the individual could lose a university place;
- the individual regrets his/her actions.

## How to appeal

1. Decide on what grounds you want to appeal and which procedures have not been properly and fairly applied.
2. Complete and return the form in the appendix along with supporting documentation.
3. The Training Manager will decide if the appeal will be accepted, this will be based on the grounds, the timescale of the appeal and whether the results have already been investigated.
4. They may refer the matter back to the awarding officer for fresh consideration without any need to follow the process of appeal further.
5. You will be told of the outcome of this decision.

## What happens next?

If your appeal is accepted, it will be referred to a Malpractice Appeals Committee. This will follow the procedures set in Stage 2 Appeals below.

## Further appeals

The decision of the Malpractice Appeals Committee is final and cannot be further appealed.

## Access arrangements and special consideration appeals

### Who can appeal?

- The learner themselves who historically undertook training with us directly (referred to as Learners)
- A head of centre (referred to as Centres)

Please note all learners who undertook training through a centre must contact their centre.

### When can appeals be made

Learners and centres can appeal results within 2 weeks of receiving the decision letter.

### On what grounds can an appeal be made?

Appeals must focus on whether we have used procedures that are consistent with Ofqual, Qualification Wales and CCEA good practice, and whether it has applied its procedures properly and fairly in arriving at their judgement.

## How to appeal

1. Decide on what grounds you want to appeal and which procedures have not been properly and fairly applied.
2. Complete and return the form in the appendix.
3. The Training Manager will decide if the appeal will be accepted, this will be based on the grounds, the timescale of the appeal and whether the results have already been investigated.
4. You will be told of the outcome of this decision.

## What happens next?

If it is the first appeal you have made against a decision, then a Stage 1 appeal will be made, if it is your second, then the Stage 2 process will be followed.

## Further appeals

The decision of the Stage 2 Hearing is final and cannot be further appealed.

## Stage 1 Appeals

An officer who has not been involved with the matter will undertake an investigation, including the written submission on the Appeals Application Form, as quickly and thoroughly as possible, normally within 2 weeks.

This will include the processes involved in making the grade decision, it does not however include the quality of the learner's work. The investigating officer may recommend a further review of a learner's work.

The Stage 1 Appeal will result in either:

- The appeal is disallowed;
- The appeal is upheld and any further work will be undertaken.

The outcome will be fed back to the applicant.

## Stage 2 Appeals

If the applicant remains unsatisfied with the outcome of the Stage 1 Appeal, they can apply for a Stage 2 Appeal within 2 weeks of the original outcome.

In a Stage 2 Appeal, we will arrange for a panel of independent member(s) to hear the appeal, known as the Appeal and Malpractice Appeals Panel. One of the members will be, not having employment or responsibilities within the company for the previous 5 years, they will make themselves known at the start of the hearing. This will comprise of one to three members and/or Governors, depending on the complexity of the case, independence, availability and also timescales for the Panel – the Chair of the Governors will make the final decision on the size of the Committee.

## The Stage 2 Hearing Process

### **Before the hearing**

The appellant (that is, the head of centre or private candidate) will have lodged a Stage 2 Appeal application within two calendar weeks of being notified of the outcome of the Stage 1 Appeal review.

The application must clearly set out both the grounds of appeal and all supporting documentation. It is important that all relevant documentation is included at this point, as there will be limited opportunities to submit additional information later on in the process. We reserve the right to produce material in rebuttal of any appeal application.

Appellants will be expected to attend the Stage 2 Appeal hearing in person.

If when notified of the date set for the appeal panel hearing, the appellant does not attend, the hearing may proceed in their absence.

The appellant may call any representatives relevant to the case but names and addresses of all representatives must be provided to us no later than 14 days before the date of the hearing. It would not generally be expected that the centre's representatives would exceed three in number.

We may also call any representatives relevant to the case. It would not be expected that our representatives would exceed three in number.

Candidates and/or their parents/carers will not be called as representatives but may attend as observers with the prior permission of the Chair of the panel. Observers are not entitled to present cases or to engage in questioning any parties at the hearing, but they may make statements at the discretion of the Chair of the panel.

The CEO has the right to attend any appeal in the capacity either as a representative or as an observer.

Other observers may attend hearings with the approval of the Chair.

Legal representation is not normally permitted at Stage 2 Appeal hearings, as a Stage 2 Appeal hearing is not a legal function.

If the appellant wishes to be legally represented, this must be discussed with us before a hearing date is finalised. In the event that legal representation for the appellant is agreed, we reserve the right to also be legally represented.

Private candidates appearing in person may be accompanied by a relative or friend.

A copy of all materials (correspondence/documents/reports etc) relating to the appeal will be forwarded to the appeals panel members and the appellant no later than seven calendar days prior to the hearing. It will not normally be possible for additional materials to be tabled on the day of the hearing. The decision whether to allow any additional materials to be tabled will be made by the Chair, with the consent of the other party.

Where any material is considered by us to be of a confidential nature, we may make such material available to the appeal hearing under such conditions as are necessary to protect the confidentiality of the material. We will ensure compliance with any relevant provisions of the Data Protection Act.

### **At the hearing**

The hearing will take the form of a re-examination of the evidence, comments and reports provided to and by us, and observations presented by the appellant.

In an appeal concerning an enquiry about results, the test applied by the panel will be whether we have:

- used procedures that were consistent with the Code of Practice ; and
- applied its procedures properly and fairly when arriving at a judgement.

In an appeal related to malpractice, (which includes maladministration) the panel will consider, on the balance of probabilities, whether there was sufficient evidence to support the finding of malpractice and how appropriate the original penalty or sanction, awarding body precedents and any additional information provided by the appellant or us.

In an appeal focusing on access arrangements or special consideration, the panel will consider whether our actions were consistent with the published procedures and were fair.

The normal procedure to be followed during appeals hearings is outlined below:

A member of the panel will Chair the hearing.

The company will be responsible for ensuring that a record of the proceedings is kept.

The Chair will undertake introductions, outline the procedures to be followed and if appropriate, provide a summary of the case.

The Chair may, at his/her discretion, accept written evidence from a third party unable or unwilling to attend the hearing.

The Chair will invite the appellant to present their case to the panel.

The Chair will then offer the representative(s) of the company the opportunity to question the appellant.

The Chair and the panel members will then have the opportunity to question the appellant.

The Chair will then invite the representative(s) of the company to present their case to the panel.

The Chair will offer the appellant the opportunity to question the representative(s) of the awarding body.

The Chair and the panel members will then have the opportunity to question the representative(s) of the company.

The Chair will offer the representative(s) of the company an opportunity to sum up their case, if they wish to do so.

The Chair will then offer the appellant an opportunity to sum up their case, if they wish to do so.

The Chair will then invite the appellant and their representative(s) and our representative(s) to withdraw, but to remain in readiness for a brief time whilst the panel determines whether they wish to ask any further questions of either the appellant or our representative(s).

If the panel determines that they do wish to ask further questions, both the appellant and their representative(s) and our representative(s) will be asked to return to the hearing.

At the conclusion of all questions, the Chair will inform the appellant, and their representative(s), and our representative(s) that the hearing is complete and they may leave.

The panel will deliberate in private. In reaching its decision, the appeals panel will apply, as appropriate, the tests set out in this document. Where the appeal relates to our procedures, the appeals panel will also consider whether any remedial action subsequently taken by us was sufficient to rectify the matter.

The appeals panel may decide to uphold the appeal or to reject it. If the appeal is upheld, the panel may:

- refer the matter back to our Training Manager for further consideration on such basis as the panel may direct; or
- direct us to carry out further work;
- in a Malpractice appeal confirm or amend the sanction.

### **After the hearing**

Irrespective of whether or not the appeal is upheld, the panel may make recommendations to us on issues/concerns that emerged during the appeal hearing.

The decision of the appeals panel will not normally be communicated to the appellant or to our representatives orally on the day of the hearing. The decision will be sent to the appellant and to the awarding body representative(s) no later than five working days after the hearing.

A draft report of the hearing will be provided to the appellant and to our representative(s) within 28 calendar days.

The appellant and our representatives will be offered the opportunity to correct errors of fact made in the report. The decision whether or not to accept amendments suggested by the appellant or by our representative(s) will be at the sole discretion of the Chair of the appeals panel.

The hearing by the appeals panel will complete the companies internal appeals procedures. No further appeal will be accepted by us.

## **Review**

This policy will be reviewed annually.

October 2019





Nature of appeal:

Details of those attending a Stage 2 appeal:

Signed:

Date: