

# Appeal Policy

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## Appeal Policy

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Responsible Manager	Head of Quality Assurance
Responsible Director	Chief Operating Officer
Accessible to	Colleagues, External Stakeholders, Customers

### Policy Statement

This policy sets out NCFE's framework for dealing with appeals to ensure that we are outlining and applying our processes, procedures and policies in a fair and consistent way for our customers.

### Applicability of Policy

This policy applies to:

- NCFE Awarding Organisation, including End-Point Assessment (EPA)
- external stakeholders, including our customers
- any future business units or subsidiaries.

### Scope and Purpose

The policy relates to all Awarding and End-Point Assessment operations within and across the NCFE Group. The policy forms part of NCFE's Quality Assurance arrangements by allowing you (the appellant) to outline your views/grievances in relation to a decision or action we have taken, as outlined during Section 1 of this policy.

### Linked policies

- Enquiries about Results and Assessment Decisions Policy
- Maladministration and Malpractice Policy
- Sanctions Policy
- Reasonable Adjustments and Special Consideration Policy
- Complaints Policy.

## Section 1 Overview of appeals

The purpose of an appeal is to ascertain if we have applied the correct processes, procedures and policies in a fair and consistent way.

### 1.1 Appeal exclusions and restrictions

The appeals procedure **will not** comprise:

- a reassessment of external assessments
- a review of assessment decisions
- a review of the content of External Quality Assurance visit reports
- an External Quality Assurance visit
- a change to a decision/sanction imposed
- a change to the centre's approval status.

### 1.2 Appeal acceptance criteria

The table below details what types of appeals we will accept:

- outcome of an enquiry about results and assessment decision
- outcome of an application for reasonable adjustments or special consideration
- outcome of a maladministration or malpractice investigation
- outcome of a decision to impose a sanction resulting from a malpractice or maladministration investigation
- outcome of a review of an appeal (stage 1) decision
- termination of product and/or centre approval status for maladministration or malpractice, or termination for breach of Centre Agreement.

You must submit an appeal application within 30 working days of receiving the original decision (or 30 calendar days for T Levels<sup>1</sup>), the outcome of an enquiry or the outcome of a review of an appeal (stage 1).

Any other area, which has resulted in your dissatisfaction, may be addressed via our Complaints Policy, which can be found on our website.

### 1.3 Who can appeal?

A centre can submit an appeal on behalf of a learner or a group of learners, with the explicit written permission of that learner or group of learners. Learners and/or their parents or legal guardians are not permitted to submit an appeal directly to NCFE.

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<sup>1</sup> T Level is a registered trade mark of the Institute for Apprenticeships and Technical Education

If you or any other relevant party wish to be legally represented in relation to any aspect of the appeal, we must be informed in writing; this must include details of who, what their credentials are and what interest they have in the appeal case. We reserve the right to also be legally represented.

## **1.4 Stages of an appeal**

There are two stages of an appeal, which we make available. These are:

### **1.4.1 Review of appeal – stage 1**

The first stage of appeal is a desk-based procedure that is completed by NCFE staff who were not involved in the original process or procedure. The appointed member of staff, or committee of staff, under normal circumstances, will not be a Subject Matter Expert. However, they will be experienced on all applicable processes, procedures, and policies.

### **1.4.2 Independent Appeals Committee – stage 2**

The Independent Appeals Committee will consist of, as a minimum, 1 independent NCFE member of staff who was not involved in the original process or stage 1 of the appeal, and an independent person who will be appointed by us.

## **1.5 Fees**

A fee to cover the administrative costs at each stage of the appeal will be charged in line with our Fees and Pricing guide, which can be downloaded [from our website](#).

## **Section 2      Review of appeal – stage 1**

### **2.1      Submitting an appeal**

You must submit a written request for an appeal using the web form available on our website, to enable us to consider the appeal application in accordance with the appeal acceptance criteria as outlined in Section 1.

Your request should include a clear rationale as to why you believe that we did not properly or fairly apply our relevant processes, procedures, or policies and must include supporting evidence.

Learner authorisation must be collected by the centre and retained for at least six months following the outcome of an appeal and in compliance with relevant legislation. We reserve the right to inspect such evidence. Failure to retain such evidence will be considered centre maladministration and will be dealt with in accordance with our Maladministration and Malpractice Policy.

If your application does not include sufficient information or evidence, we will inform you in writing, and include a final deadline for the submission of any further information and evidence to support your appeal application.

### **2.2      Appeal acceptance**

The decision of whether to accept the application for an appeal is based on:

- whether the appeal submitted falls within our acceptance criteria
- whether any other relevant/required process, procedure or policy has first been completed (e.g. enquiry about results/assessment decisions)
- whether there is sufficient evidence that our relevant processes, procedures and policies have not been consistently and fairly applied
- whether learner or centre maladministration or malpractice has occurred in relation to the process or appeal
- the timescale of the application.

If we reject an appeal application, the reason(s) for this will be provided to you in writing within 5 working days of the decision being made; this will include information about appealing to the Independent Appeals Committee where this is permitted.

If we accept an appeal application, we will appoint an independent member of staff who will send an acknowledgement letter or email within 5 working days.

### **2.3      Timescales following the acceptance of an appeal application**

We aim to action and resolve a review of an appeal within 20 working days of acceptance.

Please note that in some cases, particularly where the case may be complex and/or an independent person is not available within this timescale, the appeal may take longer than 20 working days. In such instances, we will advise you of the revised timescale and the reason(s) why.

## **2.4 Appeal review**

This stage will comprise an objective, factually based review of:

- whether we have properly and fairly applied our relevant policies processes and procedures in light of the evidence presented, including any records available relating to the original decision
- any readily available Regulators' advice on similar matters, if applicable
- any readily available Awarding Organisation precedents, if applicable.

## **2.5 Appeal outcome**

An Appeal Outcome Report will be sent via letter or email to you, which will detail the outcome of stage 1 within 5 working days of the decision being made. This will be either 'appeal upheld' or 'appeal rejected' (see 2.5.1 and 2.5.2) and will include any remedial action or details of how to appeal to the Independent Appeals Committee.

Fees will then be raised in accordance with Section 1.5 of this policy.

### **2.5.1 Appeal upheld**

If the stage 1 review found that we had not correctly applied our processes, procedures or policies fairly or consistently, we will send you an appeal outcome letter or email, which will include remedial actions to be completed, including appropriate timescales.

### **2.5.2 Appeal rejected**

If the stage 1 review found that all processes, procedures, and policies were applied correctly and in a fair and consistent way, we will send you an appeal outcome letter or email, which will include information on how to submit an appeal to the Independent Appeals Committee, where applicable.

## **Section 3 Independent Appeals Committee – stage 2**

An Independent Appeals Committee will be established to ensure that there is an additional level of independence if you are not satisfied with the decision or outcome following stage 1 of the appeals procedure.

### **3.1 Submitting an appeal to the Independent Appeals Committee**

You have the right to submit an appeal to the Independent Appeals Committee following completion of the stage 1 appeals procedure if you are not satisfied with our decision or outcome.

You must submit a written request to the Independent Appeals Committee, which should include a clear rationale as to why you believe that we did not properly or fairly apply our relevant processes, procedures, or policies, and must include supporting evidence using the web form available on our website.

If your application does not include sufficient information or evidence, we will inform you in writing, and include a final deadline for the submission of any further information and evidence to support your appeal application to the Independent Appeals Committee.

### **3.2 Appeal acceptance**

The decision of whether or not to accept the application for an appeal is based on:

- whether a stage 1 appeal has been completed
- whether the appeal is submitted as required and falls within our acceptance criteria
- whether you have supplied sufficient evidence that our relevant processes, procedures and policies have not been consistently and fairly applied
- the timescale of the application in accordance with Section 1.2.

If an application for a stage 2 appeal is rejected, the reason(s) for this will be provided in writing within 5 working days of the decision being made.

If the application for a stage 2 appeal is accepted, the Independent Appeals Committee will send an acknowledgement notification within 5 working days of the decision being made and request all information and supporting evidence from both parties. All evidence must be submitted 5 working days prior to an appeal hearing.

You must not communicate with any member of NCFE staff regarding the appeal once you receive the appeal acceptance letter from the committee, other than where requested by NCFE in order to facilitate the hearing.

### 3.3 Appeal hearing

The purpose of the Independent Appeals Committee meeting is to consider your appeal application and supporting evidence from both parties to determine, beyond reasonable doubt, whether we have properly and fairly applied our relevant processes, procedures and policies in light of the evidence presented. The Committee will consider any readily available Regulators' advice on similar matters and any readily available Awarding Organisation precedents.

The Independent Appeals Committee will consider all evidence from the stage 1 appeal and will request further information and evidence from both parties where required.

The Committee will aim to make a unanimous decision when determining the outcome of the appeal.

#### 3.3.1 During the appeal hearing

The Independent Appeals Committee may require representation from both parties to attend the appeal hearing, either in person or via telephone. This will enable the members of the Committee to question representatives from both parties.

The hearing will re-examine evidence presented from all parties, comments and reports provided to and by NCFE, and any observations or submission from the appellant.

In an appeal concerning a clerical check, a review of marking or a review of moderation, the test applied by the committee will be whether:

- The awarding body has applied its procedures consistently, properly, and fairly in arriving at judgements; and/or
- There has been a marking or moderation error, or a review of marking or review of moderation error.

In an appeal related to malpractice, the committee 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 was in light of the JCQ Malpractice regulations, awarding body precedents and any additional information provided by the appellant or awarding body.

In an appeal focusing on access arrangements, reasonable adjustments or special consideration, the committee will consider whether the awarding body's actions were consistent with the published procedures and were fair.

### 3.4 Appeal outcome

An Appeal Outcome Report will be sent via letter or email to you, which will detail the outcome of the Independent Appeals Committee within 5 working days of the decision being made. This will be either 'appeal upheld' or 'appeal rejected' and will include any remedial action.

Under no circumstance should the appellant contact members of the Independent Appeals Committee regarding the outcome of the appeal once it has been shared with relevant parties.

Fees will be raised in accordance with Section 1.5.

#### 3.4.1 Appeal upheld

If the stage 2 review found that we had not correctly applied our processes, procedures or policies fairly or consistently, we will send you an appeal outcome letter or email, which will include remedial actions to be completed, including appropriate timescales.

If an appeal is upheld, the committee may:

- Refer the matter back to NCFE for further consideration or with recommendations
- Direct NCFE to carry out further work
- In cases of malpractice, remove or confirm the finding of malpractice, and/or confirm or amend the sanction.

#### 3.4.2 Appeal rejected

If the stage 2 review found all processes, procedures and policies to have been applied correctly and in a fair and consistent way the appeal will be rejected.

The decision of the Independent Appeals Committee is final and will complete our appeals procedure. We will not accept any further appeal. Should you disagree with the decision, you have the right to express your dissatisfaction regarding our actions, products or services through our Complaints Policy, which is available on our website.

## Section 4 Appeals to our Regulators

Where your appeal relates to a regulated qualification and you remain dissatisfied with our actions, you may contact our qualifications Regulators. Our Regulators would require evidence that you have fully exhausted our appeals procedure

For centres in England and Wales, where dissatisfaction remains with the decision of the appeal hearing relating to the outcome of a marking or moderation decision, an appeal may be made to the relevant Exam Procedure Review Service (EPRS). Please note that this service is confined to NCFE T Level qualifications only.

The Exam Procedure Review Service, which is provided by Ofqual in England and Qualifications Wales in Wales, intends to look at any application which meets their criteria and decide whether the awarding organisation followed their procedures properly. They will only accept applications which have exhausted every stage of the NCFE appeals process.

Details of how to contact the Exam Procedures Review Service [can be found on their website](#).

## **Section 5      How to contact us**

If you have any queries about the contents of this policy, please contact the relevant Quality Assurance team:

**NCFE**  
Quality Assurance team  
Q6, Quorum Business Park  
Benton Lane  
Newcastle upon Tyne  
NE12 8BT  
0191 239 8000\*  
Appeals@ncfe.org.uk

\* To continue to improve our levels of customer service, telephone calls may be recorded for training and quality purposes.