

Appeals and Enquiries Policy and Procedures

Part A: Policy and background

1 General Scope

This document covers appeals and enquiries for all provision accredited by OCNSWR, in its capacity as an Open College Network (OCN) licensed by NOCN.¹ It sets out OCNSWR's policy and procedures for appeals by a Learner against assessment decisions, and for enquiries and appeals by Centres against assessment or verification decisions. These procedures do not cover complaints (see Section 4.1 for definition), for which there are separate procedures.

It replaces all previous appeals policies and procedures as from the operative date.

2 Centre procedures

The nature of OCNSWR provision means that the first stage of all cases of learner appeals is dealt with under the appeals procedures of the Centre at which the Learner is registered. These Centre procedures may vary in detail and may, for convenience, cover provision from a range of awarding organisations as well as OCNSWR. A Centre's procedures are subject to approval and monitoring by OCNSWR and should be consistent with the requirements of this document. OCNSWR reserves the right to require a Centre to amend its procedures so as to be consistent with the guidance on Stage 1 procedures in Annex to this document. OCNSWR will inform Centres in writing of these procedures and any subsequent amendments.

3 Regulatory authority

The relevant regulatory authority is NOCN.² The relevant publications of the regulatory authority are listed in Annex 1. Every attempt has been made to ensure that the provisions of this document are consistent with the requirements of the regulatory authorities. Where the requirements of the regulatory authority change, or where inadvertently these procedures conflict with those of the regulatory authority, the latter shall apply. Where the requirements of the regulatory authority are amended and require changes to this document, such changes will be made as soon as practicable, and OCNSWR will inform Centres in writing accordingly.

4 Definitions

The following definitions shall apply

Administrative An error in the administration of an assessment such that it

¹ Complementary procedures cover Access to HE provision validated by OCNSWR in its capacity as an Access Validating Agency (AVA), although the principles underlying the procedures are the same

² In the event of OCNSWR being approved by Ofqual as an awarding organisation, Ofqual would be included as one of the regulatory authorities

error	<p>materially affects the assessment outcomes for a learner. This includes, for example, but is not confined to:</p> <ul style="list-style-type: none"> • incorrect entering of results or incorrect transcription of results from one document to another • ascribing results to the wrong learner • incorrect calculation of results
Appeal	<p>(a) The process whereby a learner challenges the result of an assessment that he/she has undertaken and seeks to have the result changed or reversed.</p> <p>(b) The process whereby, following an Enquiry a Centre challenges the result of an assessment or verification decision for one or more learners that has been confirmed by OCNSWR. The appeal process is distinct from a Complaint.</p>
Appellant Complaint	<p>The learner, or Centre, making an appeal</p> <p>The process whereby a learner or a Centre makes representations to OCNSWR about some aspect of its operations, other than the result of an assessment, and seeks redress or recompense. Separate Complaints Procedures apply in such cases.</p>
Confirmation of assessment result	<p>The formal confirmation of an assessment result by a person acting with the authority of OCNSWR. This confirmation is done by the 'OCNSWR authorised person' signing the RAC</p>
Enquiry	<p>The process whereby a Centre asks for a check to be made on one or more of the steps leading to a reported result of an assessment. OCNSWR offers the following assessment methods: (a) Portfolio of evidence; (b) practical demonstration/assignment; (c) coursework; (d) e-assessment, and does not offer external assessment. A Centre's own staff will be involved in all such assessments: therefore an enquiry by a Centre is confined to circumstances defined in section 2.1 of the procedures³. An enquiry does not constitute an appeal, since it does not seek to reverse or change an assessment decision. However, the outcome of an enquiry may lead to a formal appeal.</p>
Malpractice	<p>For the purposes of these procedures it is defined as any act by an individual (learner, assessor, Centre employee, OCNSWR employee, or any other individual involved in providing a qualification), a Centre or organisation which, deliberately or wilfully contravenes or ignores the requirements of the regulatory authorities or of OCNSWR, or deliberately or wilfully subverts the integrity, validity or reliability of any assessment and/or its associated certification. Separate procedures apply in cases of alleged malpractice.</p>
OCNSWR authorised person	<p>The person who has the authority to sign the RAC and verify the results of assessment. This person is the OCNSWR Quality Reviewer, the OCNSWR External Verifier, or, where a Centre has</p>

³ If OCNSWR is at any time approved to offer other types of assessment, including 'external assessment' such as examinations, the enquiries procedures will be reviewed.

	delegated authority from OCNSWR, the named approved Internal Verifier.
Procedural error	(a) An error in the procedures for the conduct of an assessment such that it materially affects the assessment outcomes for a learner. This includes, for example, but is not confined to, an error in or failure to follow or meet: <ul style="list-style-type: none"> • the procedures for setting an assessment; • the moderation procedures; • the published deadlines for the return of assessed work
RAC	(b) An error in the procedures for the conduct of an appeal Recommendation for the Award of Credit: the document formally recording learners' individual results on units for which they have registered
Student/learner	Different regulatory bodies and agencies use different terminology to describe a person undertaking formally assessed work ('student' or 'learner'); for the sake of simplicity the term 'learner' is used throughout this document.
Week	For the purposes of this policy a week shall be understood to mean five consecutive working days (excluding Saturdays, Sundays and public holidays)

5 Policy

OCNSWR expects that queries by learners about the results of their assessment will be dealt with informally wherever possible. OCNSWR however regards it as important that learners should have the right of appeal against their results where they are dissatisfied, and should be provided with a clear formal procedural structure within which to submit such appeals. Where appeals are made it is critical that they are conducted with a degree of formality and in such a manner as to ensure so far as possible that all concerned can have confidence in the process and the outcomes. The procedural policy set out below is designed to provide such confidence.

5.1 An appeal at any Stage must be in writing and signed and dated by the learner. An appeal may be made by email but not by SMS text;

5.2 The procedures for each Stage must provide for time limits and deadlines, which may be varied by mutual consent or where it appears reasonable to do so, for example, in the case of illness or some other factor.

5.3 A Learner may only make an appeal on his/her own behalf:

- against the outcomes of a formal assessment decision, and;
- which contributes to the award of a credit, and;

5.4 It shall not be possible to take an appeal to a subsequent stage until the outcomes of the prior stage have been confirmed

5.5 As a means whereby independence is assured at each stage of the procedures, and more generally in order to ensure natural justice, no person involved in making a decision at one stage in the procedures may be involved in making a decision at any subsequent stage

5.6 A Learner shall not be deterred from making appeals on financial grounds

5.7 A Learner may be accompanied by a friend or colleague at any hearing as part of the appeals process;

5.8 Where the outcome of an appeal brings into question the accuracy of other results, OCNSWR will take steps to protect the interests of all learners, the integrity of units and/or qualifications and, where relevant, the integrity of the QCF. In such cases, OCNSWR will cooperate with any follow-up investigations required by the regulatory authorities and, if necessary, agree appropriate remedial action with them. This may involve a further review of the work of learners at the Centre.

5.9 OCNSWR will ensure that there is a single point of contact for any learner or Centre wishing to contact OCNSWR about an appeal. All communications to OCNSWR in respect of enquiries and appeals should therefore be addressed to the Director of Quality.

5.10 OCNSWR may consult the relevant regulatory authority at any point and will act on any advice received.

6 Responsibility

Responsibility for this policy and procedures rests with the OCNSWR Quality Committee acting under delegated responsibility from the OCNSWR Board

7 Review

An annual report on any cases of appeal, including those not upheld, will be made to the OCNSWR Quality Committee.

This Policy and procedures will be reviewed biennially and whenever the requirements of the regulatory bodies change.

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Approved	Quality Committee
Operative date	25 th May 2010
Revised	N/A

Part B Appeals and Enquiries Procedures

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1 Stage 1 Appeal: guidance to Centres

In accordance with the Appeals and Enquiries Policy the first stage of learner appeals is dealt with under the appeals procedures of the Centre at which the Learner is registered. These Centre procedures may vary in detail and may, for the Centre's convenience, cover provision from a range of awarding organisations as well as OCNSWR. A Centre's procedures are subject to approval and monitoring by OCNSWR and should be consistent with the Appeals and Enquiries Policy and the guidance set out below.

1.1 Scope

The Centre's procedures should clarify the scope of an appeal and distinguish appeals from complaints. Centres may find the following list of potential causes for appeal helpful:

- That there had been an error of judgment in the assessment
- That there had been an administrative error
- That there had been procedural error
- That there were extenuating circumstances and the learner had requested special consideration, but that had not been taken into account when the assessment decision was taken;
- That the learner had requested reasonable adjustments to be made in her/his assessment and the Centre had not taken these into account when the assessment decision was taken;

Malpractice

Where the appeal is based on, or includes an allegation of malpractice, the Centre must immediately inform OCNSWR in writing. Consideration of such an allegation will take precedence over the appeal. The appeal will be put 'on hold', while the allegation of malpractice is investigated under OCNSWR's Procedures for dealing with Alleged or Suspected Malpractice. At the conclusion of such an investigation, and depending on the outcome, a decision will be taken by the Centre in consultation with OCNSWR about whether or not it is appropriate to continue with the appeal.

1.2 Documentation and Communication

- The Centre should have regard for the advice on procedures set out in the Appeals Policy section 5
- The Centre should inform OCNSWR in writing of any appeal and of the outcome, and make available to OCNSWR all records associated with the appeal
- To avoid misunderstandings or disagreements later, the Centre should normally require learners to make any appeal in writing. Where a Centre accepts an appeal made orally, it is advisable for the Centre to make a record

of the nature and date of the appeal and ensure that the learner accepts this as accurate.

- The Centre should keep a record of all communications between it and the learner in respect of the appeal. It is advisable for the Centre to acknowledge any appeal in writing and in a timely manner, normally within one week of receipt of the appeal.
- The Centre should record the outcome of the appeal and of any assessment decision which is changed as a result

1.3 Time limits

- The Centre should set a time limit beyond which an appeal cannot be accepted. It is recommended that this should normally be within two weeks of the learner receiving the results of the assessment, but this time limit could be extended where both the Centre and the learner mutually agree, or in the case of illness or some other similar circumstance.
- The Centre should provide within its procedures for a time limit within which it will aim to make a decision on an appeal and inform the Learner in writing of the outcome

1.4 Hearing an appeal

It is for Centres to determine who hears an appeal, and whether it is a single person or a panel. Centres should ensure, in order to assure independence and natural justice, that the person(s) hearing the appeal:

- have sufficient professional standing and authority, and, where academic judgement has been challenged, at least one has sufficient subject knowledge
- was/were not involved in assessing or teaching the learner, or with the particular assessment that has been challenged.

Where a Centre is unable to meet either of the above requirements (for example, if it has a small number of staff), it should inform OCNSWR in writing, which will advise the Centre on how to meet the requirements, if necessary by the involvement of persons external to the Centre.

1.5 Outcomes

The Centre must ensure that in all cases (whether the appeal was successful or unsuccessful) the nature and outcome of an appeal is recorded. Centres may determine the outcome in any particular case, but may find helpful the following list of potential outcomes of a successful appeal.

- In the case of error of judgment in the assessment: the result could be changed or referred back to the tutor for re-assessment
- In the case of administrative error: the error could be corrected
- In the case of procedural error: a new assessment or assignment could be provided to the learner to undertake as a first attempt
- In the case of failure to take into account extenuating circumstances or reasonable adjustments: the learner could take the same assessment again as a first attempt, with reasonable adjustments provided as appropriate.

The Centre must immediately inform OCNSWR in writing if the outcome of an appeal brings into question the accuracy of other results, and in such circumstances OCNSWR reserves the right to take such action as it considers necessary to protect

the interests of all learners, the integrity of units and/or qualifications and, where relevant, the integrity of the QCF.

1.6 Confirmation

The OCNSWR authorised person (Quality Reviewer, External Verifier or approved Internal Verifier) signs the RAC and confirms the outcomes of all assessment and the award of credit, including those that have been the subject of an appeal. In respect of any assessment that has been the subject of an appeal the Centre should therefore:

- Ensure that the work is included in any sample of work considered by the Internal Verifier
- Ensure that the work is included in any sample of work provided to the OCNSWR authorised person so that he/she can confirm the outcome of the appeal. The individual assessment decision that has been the subject of an appeal, whether or not the appeal has been upheld, must therefore be formally approved by the OCNSWR authorised person and recorded in their report.

The decision of the OCNSWR authorised person constitutes the confirmed outcome, will be recorded in his/her report to OCNSWR, and marks the end of Stage 1.

1.7 Further appeal

If the learner is dissatisfied with the outcome of Stage 1 he/she may proceed to Stage 2.

2 Stage 1(b) Enquiry

2.1 Circumstances

Stage 1(b) applies only where a Centre wishes to make an enquiry about the result of an assessment that has been confirmed by the OCNSWR authorised person, in particular where the OCNSWR authorised person has changed, reversed or otherwise declined to confirm the outcomes of the assessment process within the Centre, or declined to confirm the outcome of an appeal at Stage 1.

2.2 Procedure

Where a Centre wishes to make an enquiry it must write to OCNSWR within two weeks of formal notification by OCNSWR of the result(s) in question, seeking information about one or more steps leading to the confirmation of the result(s) in question. At the same time the Centre must inform all the Learners in writing about whose results it has made enquiry.

The enquiry will be considered by the OCNSWR Director of Quality.

Where the result of the investigation by the Director of Quality brings into question the accuracy of one or more of results that were the subject of the enquiry, the Director will take such steps as are considered necessary to protect the interests of the learners involved, including a further review of the work of the learners or units involved, scrutiny of the centre's internal quality assurance processes.

Where the result of the investigation by the Director of Quality brings into question the accuracy of other results, OCNSWR will take steps to protect the interests of all learners, the integrity of units and/or qualifications and, where relevant, the integrity of the QCF. In such cases, OCNSWR will cooperate with any follow-up investigations required by the regulatory authorities and, if necessary, agree appropriate remedial action with them. This may involve a further review of the work of learners at the Centre.

OCNSWR will acknowledge receipt of the enquiry in writing within one week of receipt, and will provide a written response to the Centre within two weeks, in the form of a written description and explanation of the step or steps to which the Centre has referred in its enquiry.

The Centre must inform all the learners in writing referred to above of the outcomes of the enquiry.

2.3 Appeal

If the Centre or any of the learners whose results were included in the enquiry are not satisfied with the response to its enquiry they may proceed to make an appeal at Stage 2.

3 Stage 2 Appeal

3.1 Circumstances

Stage 2 applies in the following circumstances

- Where a Learner is dissatisfied with the outcome of Stage 1 and wishes to appeal further;
- Where a Centre is dissatisfied with the response to an Enquiry at Stage 1(b) and wishes to institute an appeal against the result or results in question
- Where a Centre is satisfied with the response to an Enquiry at Stage 1(b) but a Learner whose results were included in the enquiry is dissatisfied and wishes to institute an appeal against the result or results in question.

3.2 Grounds for appeal

The grounds for appeal by a learner at Stage 2 are limited to one or more the following:

- That the learner is dissatisfied with the decision at Stage 1, or the response of OCNSWR to the enquiry at Stage 1(b) in respect of one or more of the following matters
 - Administrative error in the assessment
 - Procedural error in the assessment
 - Extenuating or mitigating circumstances or reasonable adjustments
- That there has been procedural error in the conduct of the appeal at Stage 1
- That there were extenuating or mitigating circumstance, or circumstances giving rise to the need to make reasonable adjustments in the assessment of the Learner, that the Learner could not reasonably have known of, or not reasonably have brought to the attention of the Centre, of at the time of the Stage 1 appeal, or within the time limits required by the Stage 1 appeal, and which the Learner now wishes to be taken into account.

The grounds for appeal by a Centre at Stage 2 are limited to one or more the following:

- That the Centre is dissatisfied with the response from OCNSWR at Stage 1(b) in respect of one or more of the following matters
 - Administrative error in the assessment by OCNSWR
 - Procedural error in the assessment by OCNSWR
 - That there has been procedural error in the conduct of OCNSWR in responding to the enquiry

3.3 Submission

The appellant (learner or Centre) must submit their appeal to OCNSWR within two weeks of receipt of the confirmed outcome of the appeal at Stage 1(a) or Enquiry at Stage 1(b) or assessment results about which malpractice is alleged, as appropriate.

OCNSWR will acknowledge receipt of the appeal within one week.

3.4 Appeal Panel

The appeal will be considered and determined by an Appeal Panel of three persons as follows:

- A member of the OCNSWR Quality Committee (other than its chair) who will chair
- The OCNSWR Director of Quality
- An OCNSWR Quality Reviewer or External Verifier who was not involved in the original assessment decision

The appellant should provide sufficient information so as to enable the Appeal Panel to make a decision. However, where the Panel considers it necessary at any point in the process, it may seek additional information before making a decision.

Where it appears to the appeal panel that the process of obtaining additional information will take, or is likely to take, more than two weeks, the appellant will be informed in writing of progress and the anticipated date on which the panel will meet to hear the appeal.

The appeal panel will agree a date to meet to hear the appeal, which will be, so far as is practicable and reasonable, at a time and place where the appellant may attend, accompanied by a friend or colleague, if (s)he wishes, to present their appeal. If no mutually agreed date can be agreed, the appeal panel shall be entitled to meet without the appellant present; the absence of the appellant shall not invalidate the proceedings.

The decisions open to the Panel will depend on the nature of the case, but will include:

- To dismiss the appeal
- To uphold the appeal, in which case, the Panel may reverse the original assessment decision or refer the assessment back to the Centre and the OCNSWR authorised person for further consideration, or some other action as appears appropriate

The decision of the Appeal Panel marks the end of Stage 2.

The decision will be communicated to the appellant and Centre within one week of the decision being taken.

If the appellant (Learner or Centre) is dissatisfied with the outcome of Stage 2 he/she/it may proceed to Stage 3

4 Stage 3 Appeal

4.1 Circumstances

Stage 3 applies where the appellant is dissatisfied with the outcome of Stage 2 and wishes to appeal further.

4.2 Grounds for appeal

The grounds for appeal at Stage 3 are confined to one or more the following:

- That the Stage 2 Appeal Panel was incorrect in its decision
- That there was a procedural error in the conduct of the Stage 2 Appeal
- That the appellant wishes to present new evidence which could not for legitimate reasons be presented to the Stage 2 Appeal Panel

4.3 Submission

The appellant must submit their appeal within two weeks of receipt of the decision of the Appeal Panel at Stage 2.

OCNSWR will acknowledge receipt of the appeal within one week, and will inform NOCN.

4.4 Appeal Panel

The appeal will be considered and determined by a Stage 3 Appeal Panel of three persons as follows:

- The Chair of the OCNSWR Quality Committee who will chair
- A member of the OCNSWR Board (other than its chair)
- The OCNSWR Chief Executive
- An external member, who shall have had no involvement with OCNSWR during the previous seven years.

OCNSWR will seek nominations for the external member from appropriate organisations, such as another OCN or NOCN.

The appellant should provide sufficient information so as to enable the appeal panel to make a decision. However, where the panel considers it necessary at any point in the process, it may seek additional information before making a decision.

Where it appears to the appeal panel that the process of obtaining additional information will take, or is likely to take, more than two weeks, the appellant will be informed in writing of progress and the anticipated date on which the panel will meet to hear the appeal.

The appeal panel will agree a date to meet to hear the appeal, which will be, so far as is practicable and reasonable, at a time and place where the appellant may attend, accompanied by a friend, if (s)he wishes, to present their appeal. However, the appellant may not introduce new information at the hearing that was not included in her/his written appeal. If no mutually agreed date can be agreed, the appeal panel

shall be entitled to meet without the appellant present; the absence of the appellant shall not invalidate the proceedings.

The decision of the Stage 3 Appeal Panel is final.

The decision will be communicated to the following within one week of the decision being taken:

- The appellant
- The appellant's Centre
- The OCNSWR Board
- NOCN (in the case of OCN provision)

Annex 1

Relevant publications by Regulatory authorities

Ofqual	2004	<p>The Statutory Regulation of External Qualifications in England, Wales and Northern Ireland:</p> <ul style="list-style-type: none"> - Enquiries and appeals procedures (paragraphs 23 – 27) - Dealing with malpractice (paragraphs 31) 	http://www.ofqual.gov.uk/files/6944_regulatory_criteria_04%281%29.pdf
Ofqual	2008	<p>Regulatory arrangements for the Qualification and Credit Framework (2008)</p> <ul style="list-style-type: none"> - Appeals and enquiries (paragraph 5.24 – 5.28) - Dealing with malpractice (paragraphs 5.29 – 5.32) 	http://www.rewardinglearning.org.uk/regulation/reform_of_vocational_qualifications/qcf_regulations.asp