Appeals Policy

V25.3

Appeals Policy	
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Introduction

VQA is committed to ensuring any decisions it makes remain fair, reliable and provide accurate and comparable results, however, we recognise that there may be situations where an individual wishes to appeal a decision or judgement VQA has made.

As such, VQA offers the below Appeals policy to provide external parties with a means to contest decisions made by VQA, where an individual or organisation reasonably believes VQA has not followed its procedures and processes correctly and therefore has not made its decisions and judgements fairly.

VQA Internal Responsibility

The Regulatory Compliance Pillar is responsible for the maintenance and compliance of this policy. If the Compliance Manager is absent, the Responsible Officer will appoint another member of the Leadership Team to ensure VQA's actions and activities are in line with the contents of this policy.

Review arrangements

We will review the policy as part of our annual self-evaluation process and revise it when necessary from the following sources; in response to feedback, trends from our internal monitoring arrangements, changes in our practices, actions by regulatory authorities or external agencies or changes in legislation.

The annual review of this policy will be undertaken by the Regulatory Compliance Pillar. Any amendments or updates to this policy will be approved by VQA's Leadership Team.

Where the regulators notify VQA of failures that have been discovered in the appeals processes of another awarding organisation, VQA will review whether or not a similar failure could affect our processes and arrangements and take action to amend this policy where necessary.

Who can appeal?

- A VQA Recognised Centre

A VQA Recognised Centre may wish to appeal decisions VQA has made concerning the centre, specifically quality assurance decisions such as application of a sanction on a Recognised Centre following an investigation into malpractice or maladministration.

A Recognised Centre may wish to query the results of a Learner's, or a cohort of Learners', assessment, including private candidates, the process for which is covered under the 'Enquiry About Results' section of this policy. Recognised Centres must retain all qualification evidence until they receive their results, and throughout any appeals process. It will only be possible to appeal the result of an assessment if the qualification evidence is retained for review.

- A Training Provider

A Training Provider may appeal if it believes VQA has not followed its procedures fairly and consistently when coming to an assessment decision regarding one of its Apprentices. The Training Provider must have written consent from the Apprentice before appealing in this way, as the result of any appeal may impact their grade.

Training Providers should be aware that no assessment activities may take place once an appeal has been opened, including resits or retakes. Any activities scheduled to take place while an appeal is ongoing will be postponed. An appeal is considered open once receipt of the Appeals Form has been confirmed.

- A Learner undertaking a regulated qualification that is not an End-Point Assessment

A Learner undertaking a regulated qualification that is not an End-Point Assessment with a Recognised Centre may wish to query the results of an assessment, in which case they should contact their centre. Recognised Centres may make an Enquiry About Results on behalf of a Learner.

- A Private Candidate undertaking a regulated qualification that is not an End-Point Assessment

A Private Candidate should be encouraged to submit a request to query the results of an assessment via their Recognised Centre. However, they may submit a request directly to VQA. Private candidates should be identified by the Centre when submitting entries to VQA to enable VQA to validate any requests that arrive directly from Private Candidates. There will also be instances where Private Candidates undertake online exams without attending a centre and in this instance ID must be verified in regard to an Appeal. VQA will advise Private Candidates of the process for reviews of marking.

- An Apprentice undertaking End-Point Assessment with VQA

An Apprentice undertaking End-Point Assessment with VQA who believes procedures have not been applied fairly and consistently in arriving at a judgement of attainment must first consult with their Training Provider if they wish to query a decision made by VQA. Appeals relating to End-Point Assessment provision must be submitted by the Training Provider.

Learners undertaking a VQA endorsed course

Learners undertaking a VQA endorsed course with a VQA Recognised Centre should utilise the centre's own appeals process and are not able to appeal directly to VQA as VQA is not involved in assessment decisions relating to endorsed courses. Such a Learner is still entitled to make a complaint about a VQA Recognised Centre in relation to an endorsed course and should consult the Complaints Policy to establish how to make a complaint about a centre.

The Appellant

For the purposes of this document, the Appellant is considered to be the person or organisation who completes and submits the Appeal Form, as outlined in the 'Appeals Process' section, or who makes the Enquiry About Results, as detailed in the 'Enquiry About Results (EAR)' section.

Appeal Routes

There are two routes for an appeal:

- Enquiry About Results (EAR), which consists of either:
  - Clerical Check / Review of Marking, or
  - Review of Moderation.
- Formal Appeal

An EAR is the appropriate route where the Appellant specifically wishes to enquire about the result of an examination set by VQA, specifically:

- A Clerical Check applies to externally set examinations marked by VQA.
- A Review of Moderation applies to externally set, internally marked assessments subject to moderation.

See the section 'The Enquiry About Results (EAR) Process'.

A Formal Appeal is the appropriate route where an Appellant wishes to challenge any other outcome. See the section 'The Formal Appeal Process'.

Fees

Appeals may be subject to a fee. Details of our fees can be found on the VQA website.

Appeals relating to access arrangements, reasonable adjustments or special consideration

The process by which a decision is made on whether to apply reasonable adjustments or special considerations is outlined in the Reasonable Adjustments and Special Considerations policy. A Recognised Centre or Training Provider who wishes to appeal such a decision should consult the Reasonable Adjustments and Special Consideration Policy first in order to understand the process VQA applied when deciding whether or not to apply a reasonable adjustment or special consideration.

If, after consulting the relevant policy, the Recognised Centre or Training Provider disagrees with the decisions made and has reasonable grounds to believe that VQA has not followed its processes and procedures correctly, then an appeal should be made following the process below.

Timeframe for submitting an appeal

For an appeal not related to an End-Point Assessment, an Appellant has 4 weeks from the date VQA notifies the individual of the decision in question in which to submit the Appeals Form. This includes assessment results.

For an appeal contesting the results of an End-Point Assessment, a prospective appellant must notify VQA within 2 weeks following the issuing of results that they intend to appeal the outcome. If notification of the intent to appeal is not received within 2 weeks, it will not be possible to conduct an appeal, as after this period the outcome will be confirmed and processed. The prospective Appellant will then have up to the usual 4 weeks from the issue of the result in which to submit the completed Appeals Form, with any supporting documentation attached.

The Enquiry About Results (EAR) Process

An EAR is a review of the administration, marking and/or moderation of a particular assessment component or examination script for an examination which has been externally marked (by VQA) or has been internally marked (at a Recognised Centre) and externally moderated (by VQA). This is the appropriate course of action where:

- A Learner's results differ widely from the reasonable expectation of their tutor where an assessment has been externally marked.
- A Learner's results are unexpected compared to their peers or other members of the cohort where an assessment has been externally marked.
- A cohort's results as a whole differ widely from the reasonable expectation of their assessor where an assessment has been externally moderated but was internally marked.
- An Apprentice's examination result differs widely from the reasonable expectation of their on-programme assessor.

An EAR only applies to appeals about the results of End-Point Assessment components which are examinations set and marked by VQA, such as an MCQ assessment component. An EAR does not apply to the results of an End-Point Assessment in its entirety, and will only address issues related specifically to the examination. Likewise, an EAR does not apply to invigilator decisions. Apprentice and Training Providers should use the formal appeals procedure for appeals relating to other elements of an End-Point Assessment.

A Recognised Centre or Training Provider may apply to receive the script from an examination before deciding to pursue an EAR by notifying VQA, who will forward an electronic copy of the scripts. This is only possible where an examination is delivered as part of a session and is subsequently retired, rather than in line 'on-demand' use. Please note: information recorded by learners in examination scripts is exempt from Subject Access Requests under the provisions of the UK GDPR.

EARs must be submitted by the Recognised Centre or Training Provider. If an individual Learner or Apprentice wishes to make an EAR, they should contact their Centre or Training Provider, who will be able to enquire on their behalf.

There are two routes to follow when making an EAR depending on the assessment:

- a clerical check, which may be followed by a review of marking, appeals the results of an individual Learner or Apprentice's externally marked examination;
- a review of moderation appeals the results for a cohort of Learners who undertook an internally marked, externally moderated assessment.

It is important to note that results may go up, down or stay the same. Where there is a reduction in marks or a downgrade following review, the request cannot be revoked, and the original result cannot be reinstated.

Clerical Check

A clerical check is conducted to ascertain that the marking of the assessment has been recorded and processed correctly, namely that:

- all sections of the exam paper have been marked
- marks have been recorded accurately and added up correctly
- where applicable, grade boundaries have been applied correctly to produce the final grade
- where applicable, special consideration have been applied accurately
- no administrative errors have occurred when applying the mark scheme.

If a discrepancy is found, VQA will arrange for any errors to be rectified. It is important to note that results may go up, down or stay the same as the result of this kind of review. As such, the Appellant must obtain written consent from Learners or Apprentices before asking for a clerical check.

Evidence of this consent must be retained by the Centre and kept for a minimum of six months following the outcome of any clerical check, review of marking or subsequent formal appeal. VQA reserves the right to request this documentation.

A clerical check is expected to take 10 working days from when the Appellant formally instructs VQA to undertake the check. VQA will inform the Appellant if circumstance dictate that this timescale cannot be met.

Review of Marking

Once a clerical check has been conducted and the Appellant has been notified of the outcome, the Appellant may request a further review of the original marking to establish if the mark scheme has been applied correctly. The review will ascertain whether or not the mark scheme has been applied correctly and, where applicable, academic judgements are reasonable.

The review of marking will be conducted by an assessor who was not involved in the marking of the original script, of suitable competence, and appointed and trained by VQA. The reviewer will not re-mark the entire script but will act to amend any errors identified in the original marking.

In the event that the marking was automated, the reviewer will review the responses to identify if any errors in the mark scheme or technical issues have occurred.

A review of marking is expected to take 10 working days from when the Appellant formally instructs VQA to undertake the review. VQA will inform an Appellant if circumstances dictate that this timescale cannot be met, such as if appropriately qualified reviewers are not immediately available.

Review of Moderation

Please note that this type of review does not apply to End-Point Assessment.

For assessments where moderation is used, (i.e. those that are internally marked but externally moderated) following completion of a clerical check, the Recognised Centre may appeal the results of the moderation process, in which case VQA will review the original moderation to ensure that the changes have been made fairly, reliably and have been consistently applied.

If a Recognised Centre has concerns about one of its cohorts, then it should submit requests for a review of moderation for all candidates in the cohort. Written consent of all learners in the cohort involved is not required for a Recognised Centre to appeal about moderation. However Learners should be notified that any lowered mark may affect future certification.

There are three possible outcomes arising from a review of moderation:

- no change to the original moderation decision
- a correction to the original moderation decision
- reinstatement of centre marks.

VQA will give a reason for the first two outcomes.

A review of moderation is expected to take 35 calendar days from when the reviewer has received the original sample of work from the Centre. VQA will inform the Recognised Centre if circumstances dictate that this timescale cannot be met. Centres should inform Level 3 learners that reviews of moderation may not necessarily be completed to meet individual universities' deadlines.

Centres must ensure the original sample of work is ready for despatch when they receive details, from VQA, of the reviewer to whom the work should be sent. Centre-assessed work must not be sent at the time of submitting the review of moderation.

Work submitted for a review of moderation must:

- be dispatched to the reviewer within three working days following the receipt of instructions from VQA. Failure to meet this may delay the outcome of the review or may result in the review being cancelled.
- be the original work submitted for moderation
- have been kept under secure conditions and not returned to the learners.

Centres are advised to retain a copy of the work if it will be required for future assessment opportunities.

The Formal Appeal Process

Grounds for Appeal

A Formal Appeal is the process through which an Appellant can dispute that VQA have applied procedures fairly, appropriately and in line with its policies. For a Formal Appeal to be successful,

the Appellant must prove on the balance of probability that VQA has not acted in line with its procedures in fairly arriving at a judgement.

The Appellant must have genuine cause to believe VQA has not followed its procedures and will have to explain the reasons why they believe this.

A Recognised Centre or Training Provider may appeal when it has genuine cause to believe VQA has:

- Made an administrative error
- Made an unreasonable exercise of academic judgement
- Failed to consistently apply its procedures.

If you are unsure as to whether you have eligible grounds for an appeal, we encourage an initial enquiry to be made to the Compliance Team, who will be able to advise on whether or not your enquiry would constitute a Formal Appeal.

If a Formal Appeal is submitted and the grounds are unclear, VQA may ask for clarification before commencing the investigation.

The Formal Appeal

The Appellant must complete and submit the Appeals Form to formally begin the process. The appellant should clearly set out the grounds for appeal in their submission, considering the 'Grounds for Appeal' section of this policy.

The Appellant must provide any relevant supporting evidence they believe may inform their case to VQA at the point of submission. Evidence submitted at a later date will not be considered. The supporting evidence must include the contents and outcome of any existing investigation carried out relating to the issue, and the Appellant is encouraged to include transcripts and email threads of nay relevant communications where possible, or timeline of activities.

Where acting on behalf of an Apprentice, a Training Provider must obtain explicit written consent from the Apprentice in writing before lodging the Formal Appeal, and confirm that the Apprentice has been informed that results can go up, down or remain the same as the result of a Formal Appeal. VQA may request to see proof of this consent in writing.

VQA will confirm receipt of the Formal Appeal within two working days. The Formal Appeal stage will take 20 working days from the day the Formal Appeal was opened. This date will be communicated with the Appellant on confirmation of receipt.

The investigation into the Formal Appeal will be conducted by a suitably competent VQA staff member who has had no prior involvement in any decisions or investigations relating to this outcome in question.

Results of the Formal Appeal

Following the conclusion of the Formal Appeal, VQA will notify the Appellant of its decision to either:

- Uphold the Formal Appeal and amend the original decision in light of the new rationale/evidence being put forward and which has now been reviewed, or;
- Not-Uphold the Formal Appeal, confirming that VQA stands by the original decision, and in doing so the rationale for making this decision, or;
- Not-Uphold the Formal Appeal, confirming that VQA stands by the original decision, however, recognises that shortcomings have been identified in the processes and procedures which led to the decision being made.

VQA will always attempt where possible to describe to the Appellant any next steps which can be taken by any Apprentices or Learners involved to achieve a satisfactory outcome.

VQA requests that within 10 working days of receiving notification of the result of a Formal Appeal, an Appellant confirms to VQA if they accept this decision or if they wish to proceed to VQA's Independent Review process. If no response has been received from the Appellant within this time VQA will consider the decision to have been accepted and the matter closed.

The Independent Review

If an Appellant has received the results of an appeal which has not been upheld and has genuine cause to believe that VQA has not followed its Appeals Policy and procedure in determining the outcome of the appeal, they may choose not to accept the result, and instead proceed to an independent review stage.

To support this, the Appellant will be asked to detail the reasons why they believe VQA did not follow its Appeals Policy and procedure, and come to a fair and valid judgement. VQA will only progress an appeal to this stage if suitable grounds are provided.

If an Appellant chooses to proceed to an independent review, remedial steps suggested at the conclusion of the formal appeal stage will not be applied. Once the independent review is complete, any remedial steps recommended by the independent review will be applied instead.

VQA will appoint an independent reviewer to consider the case. The independent reviewer will be a person with the competence required to make a decision in relation to the appeal and will not have a personal interest in the outcome. As such, the independent reviewer will not be an employee of, an Assessor working for, or otherwise connected to VQA

The purpose of the independent review is to ascertain if VQA has applied its appeals procedures fairly, appropriately and in line with its policies. In order for an appeal to be successful, the Appellant must prove on the balance of probability that VQA has not acted in line with its appeals procedures in fairly arriving at a judgement.

The independent review would normally take the form of a desk-based review and include the opportunity for the reviewer to seek clarification on points raised by the Appellant.

The exact method of obtaining any clarification will be decided upon by VQA in collaboration with the Appellant. For example, where it is not practicable for all parties to conduct a face-to-face meeting, VQA along with the Appellant and the independent reviewer may explore an appropriate technical solution to conducting the meeting remotely.

All of VQA's records regarding the appeal will be made available to the reviewer.

It will not be possible for further materials to be submitted for consideration as part of the review by any party.

Where any material could be considered confidential, VQA will take any necessary steps to ensure compliance with data protection legislation.

If the independent review finds that VQA has not followed its procedures properly and fairly, it will determine any remedial action to be taken. Irrespective of the outcome of the independent review, it may make recommendations to VQA on any areas for improvement it has identified through the process and any measures that could be put into place to address these.

Further Avenues

If an Appellant continues to believe that processes have not been properly followed, a complaint may be made to the regulators. VQA can provide advice on who to contact and which regulator is applicable to the case.

An Appellant who remains dissatisfied with the procedures and processes followed by VQA in relation to a Regulated Qualification based in England can complain to Ofqual using the below contact details:

By Email to: public.enquiries@ofqual.gov.uk

By Letter to:

Complaints – Ofqual
Earlsdon Park
53 – 55 Butts Road
Coventry
CV1 3BH

An Appellant who remains dissatisfied with the procedures and processes followed by VQA in relation to a Regulated Qualification that is not an End-Point Assessment delivered by a Recognised Centre based in Northern Ireland can complain to the Council for the Curriculum, Examinations and Assessment (CCEA) using the below contact details:

Through the online Complaints Form via the website www.ccea.org.uk

By Telephone on 028 9026 1200

By Email to complaints@ccea.org.uk

In all of these cases, the regulator will seek to confirm that procedures have been followed correctly and not reassess work. In all but exceptional circumstances, it will be necessary for the appellant to have completed the appeal and independent review stages of this appeals process before a complaint will be accepted by the regulators.

An Appellant who has appealed on behalf of an Apprentice undertaking the End-Point Assessment can complain to the Education and Skills Funding Agency (audit) using the below contact details:

By Email to: complaint.ESFA@education.gov.uk

By Letter to:

Complaints Team
Education and Skills funding Agency
Cheylesmore House
Quinton Road
Coventry
CV1 2WT

www.vqa.org

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