



Escalated appeals 2021:

Information for centres and learners

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Introduction: Escalated appeals 2021

Escalated appeals are available for graded National Course awards in 2021, where either the learner or the head of centre has reason to believe that there has been a procedural irregularity and/or an unreasonable decision in SQA's consideration of the initial appeal.

Escalated appeals can only be submitted following the outcome of an appeal for unresolved centre or SQA administrative error (a 'Type B' appeal) or discrimination or other unlawful conduct contrary to the Equality Act 2010, or when a centre has failed to comply with SQA's requirements to provide assessment arrangements (a 'Type C' appeal).

The outcome of a Type A appeals review is an academic judgement. It represents the considered findings of a senior appointee, taking into account all the evidence available to them. The outcome is final and there is no further recourse within SQA.

Procedural irregularity and unreasonable decision

Procedural irregularities that might be considered include:

- ◆ SQA senior officers involved in the original appeal process did not receive or review some or all of the evidence provided by the centre.
- ◆ The outcome of the original appeal process was not processed accurately.

SQA has outlined three possible definitions of an unreasonable decision:

- 1 A decision with no plausible justification.
- 2 A decision maker (or makers) taking into account irrelevant considerations or failing to consider relevant considerations
- 3 A decision maker (or makers) failing to give reasons or the reasons given making no sense.

Each escalated appeal will be considered on its own facts and circumstances.

Before escalating an appeal

Learners and/or centres will be offered a telephone conversation to clarify the decision at the conclusion of a Type B or Type C appeal.

Following this telephone conversation, or if they have declined the offer of a telephone conversation, the learner or head of centre can choose to escalate the appeal if they believe there has been a procedural irregularity or an unreasonable decision.

Where a learner has authorised a representative to deal with their appeal on their behalf, SQA will continue to respect the authorisation from the initial appeal stage in any escalated appeal, unless the learner indicates that they wish to amend or end this arrangement. Throughout this document when we refer to 'a learner', this is intended to also apply to any representative authorised by the learner to act on their behalf.

Requirements for an escalated appeal

In summary:

- ◆ An escalated appeal request letter should be sent to escalatedappeals2021@sqa.org.uk within 10 working days of a telephone conversation, or within 10 working days from the date of SQA's appeal outcome letter where the learner or head of centre declines the offer of a telephone conversation.
- ◆ The request letter must explain in detail why the learner or head of centre believes there has been a procedural irregularity on the part of SQA in the conduct of the appeal, or an unreasonable decision as defined above, which has contributed to its unsuccessful outcome.
- ◆ Escalated appeal requests will only be accepted from the learner or their authorised representative, or the head of centre or their nominated representative (who must be a senior member of staff within the centre).
- ◆ Where the escalated appeal is requested by a learner, SQA will make the relevant head of centre aware of the escalated appeal request.
- ◆ Where the escalated appeal is requested by a centre representative, the centre must make sure that the learner is aware of its request.
- ◆ The escalated appeal will not consider matters of academic judgement, and no academic evidence on behalf of the learner can be considered as part of the escalated appeal.
- ◆ It will not be possible to conclude escalated appeals ahead of the deadline for Universities and College Admissions System (UCAS), or Higher Education Institution (HEI) deadlines for admission to courses for 2021–22, and the learner and the centre will be advised of this.

The escalated appeals process

There are two initial steps in our processing of an escalated appeal. These happen before an escalated appeal can be referred to the Appeals Sub-Committee, and may result in the escalated appeal being resolved:

- ◆ Eligibility check
- ◆ Evidence review

Eligibility check

We will acknowledge an application for an escalated appeal within five working days of receiving it.

The reasons for the escalated appeal and any other relevant information we hold will be reviewed by a panel of senior SQA staff who were not involved in the original appeal stage.

The possible outcomes of the eligibility check stage of the escalated appeal process are:

- ◆ The request may be rejected if the panel considers that it does not comply with the eligibility criteria described above — for example, that the request:
 - does not relate to a Type B or Type C appeal
 - seeks to review matters of academic judgement
 - has not been received within the applicable timescale as detailed in the section 'Requirements for an escalated appeal' from an eligible learner, their authorised representative or centre representative
 - does not include a detailed explanation of their reason for believing that there has been a procedural irregularity or unreasonable decision, as defined above, by SQA in the initial appeal process

- ◆ The escalated appeal request may be confirmed as eligible to proceed.

Where an escalated appeal is rejected on the basis that it does not comply with the eligibility criteria, the learner and/or centre who requested the escalated appeal will be advised in writing within 15 working days of acknowledgment of the request. The decision to reject an escalated appeal request on the basis that it is not eligible will be taken by a panel of senior officers, with the final outcome subject to approval by an SQA director. A written decision will be issued by the SQA director, giving reasons for this decision. The learner and/or centre will be advised that SQA's decision is final and that no further recourse is available within SQA.

Where the escalated appeal has been requested by a learner, SQA will make the relevant head of centre aware of the outcome of the eligibility check for that request.

Where the escalated appeal has been requested by a centre representative, the centre must make sure that the learner is aware of the outcome of the eligibility check for that request.

Evidence review

If an escalated appeal request is confirmed as eligible for consideration, a panel of SQA senior officers will scrutinise the initial appeal decision records. This will establish whether there is evidence of the procedural irregularity or unreasonable decision that the learner or centre believes has occurred. The panel's decision will be subject to approval by an SQA director.

- ◆ If it is found that procedures were applied correctly in the initial appeal process, and that the decision was reasonable, the learner or centre will be informed that no further action will be taken with the learner's award.

- ◆ If it is found that procedures were not applied correctly in the appeal process, or that the decision was unreasonable, we will advise the learner or centre of the steps we will take to resolve the matter.

For both outcomes, an SQA director will provide a decision in writing within 15 working days of the acknowledgement of the escalated appeal. This will include the reason for the decision.

Where the escalated appeal request has been made by a learner, SQA will make the head of centre aware of the outcome of the evidence review.

Where the escalated appeal request has been made by a centre representative, the centre must make sure that the learner is aware of the outcome of the evidence review.

Referral to the Appeals Sub-Committee

If the director's decision, following the evidence review, is that the escalated appeal is not supported by the evidence, the learner or centre may still believe that a procedural irregularity has occurred or that an unreasonable decision has been reached at the initial appeal stage. If so, the learner or centre can ask to refer the appeal to the final Appeals Sub-Committee stage. This should be done in writing to escalatedappeals2021@sqa.org.uk within 10 working days of being notified of the director's decision.

In accordance with the criteria for the original escalated appeal request described above:

- ◆ A request to refer to the Appeals Sub-Committee can only be submitted by the learner, the relevant head of centre, or their duly authorised representative.
- ◆ A referral request may only be submitted to the Appeals Sub-Committee following receipt of a letter from an SQA director explaining their judgement that, on review of escalated appeal evidence, procedures have been applied correctly in the appeal process for the learner, that they find the decision to have been reasonable, and that no further action will be taken with the learner's award.
- ◆ A referred request will only be considered by the Appeals Sub-Committee where it relates to an NQ 2021 appeal, and is limited to procedural irregularity and/or unreasonable decision in the original appeal process.
- ◆ The escalated appeal will not consider matters of academic judgement, and no academic evidence on behalf of the learner can be considered as part of the escalated appeal to the Appeals Sub-Committee.
- ◆ It will not be possible to conclude a referral to the Appeals Sub-Committee ahead of the deadline for UCAS or HEI deadlines for admission to courses for 2021–22. Learners and centres will be advised of this.

What is SQA's Appeals Sub-Committee?

SQA's Appeals Sub-Committee is a sub-committee of SQA's Qualifications Committee. The remit of the sub-committee is to consider escalated appeals in limited circumstances. In the context of SQA's 2021 awarding model, the arrangements that will apply to the SQA Appeals Sub-Committee are described here and in the current standing orders for that sub-committee. In the context of SQA's 2021 awarding model, these replace the arrangements for the Appeals Sub-Committee that are described in SQA's *The Appeals Process: Information for Centres*.

The sub-committee comprises a chair (the chair of SQA's Qualifications Committee or their nominated deputy), one or two other members drawn from SQA's Board and/or the Qualifications Committee, and an independent member. The independent member is a person of standing in a professional environment and is expected to serve on the sub-committee for no more than two years.

What will happen when an appeal is referred to SQA's Appeals Sub-Committee following evidence review?

The SQA Appeals Sub-Committee is convened only when there is a valid escalated appeal to be considered.

SQA Appeals Sub-Committee meetings take place in person, by virtual meeting or by review of documents where this is the preferred method selected by the learner or centre.

The meeting involves members of the Appeals Sub-Committee, having reviewed documents and records, hearing oral submissions and taking additional evidence from the learner or centre and from SQA officers. The Appeals Sub-Committee will then form its decision in a private session. It will issue its decision in writing to the learner or centre and to SQA officers.

The possible outcomes of consideration by the Appeals Sub-Committee are:

- ◆ Confirmation that SQA procedures have been applied correctly in the appeal process, and/or that the decision has been reasonable.
- ◆ Identification of a procedural irregularity and/or unreasonable decision at the initial appeal stage, requiring steps to be taken to resolve the matter.

If the Appeals Sub-Committee decides that an SQA procedural irregularity has taken place and/or that the decision to reject the original appeal has been unreasonable, SQA will advise the learner or centre of the steps to be taken to resolve the matter.

More information about the Appeals Sub-Committee stage will be provided to any applicable learner and/or centre following evidence review.

What are the timescales involved in referring an escalated appeal to the SQA Appeals Sub-Committee?

Meetings will normally be expected to take place within 12 weeks of the learner or centre confirming to SQA in writing that they wish to escalate the matter to the Appeals Sub-Committee. SQA will give the learner or centre at least 10 working days' notice of the date of the meeting.

The learner or centre should notify SQA of the identity and role of any person planning to attend the meeting at least seven working days before the meeting is scheduled to take place.

No later than five working days before the meeting, SQA will supply the sub-committee members, the learner or centre, and any SQA representatives attending, with the papers for the case.

The sub-committee's decision will be provided to the learner or centre and to SQA officers in writing no later than 10 working days after the meeting.

Where the escalated appeal has been requested by a learner, SQA will make the relevant head of centre aware of the Appeals Sub-Committee's decision.

Where the escalated appeal has been requested by a centre representative, the centre must make sure that the learner is aware of the Appeals Sub-Committee's decision.

What options are available following an SQA Appeals Sub-Committee decision?

Decisions by the SQA Appeals Sub-Committee are the final stage in SQA's appeals process, and as such are binding.