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PART OF **nocn** GROUP

# Appeals Policy and Procedure

Version 3.0

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## 1. Scope

- 1.01 This policy and procedure details how a learner registered on a NOCN product or an approved Centre can appeal against a judgement or decision made by NOCN. This policy and procedure is applicable to decisions regarding NOCN qualifications, non-regulated courses and endorsed programmes.
- 1.02 This document **does not apply** to decisions regarding Centre, qualification or staff approval applications. The decisions made by NOCN regarding these applications cannot be appealed.
- 1.03 If an appellant is managed by or registered with a NOCN subsidiary or Delivery Partner, then they must contact that organisation directly regarding their appeal. The organisation will follow this policy and procedure and respond to appeal applications on behalf of NOCN. Individuals who are affected by this should replace references to NOCN with the relevant subsidiary or Delivery Partner throughout this document.
- 1.04 The intended audience for this document is:
- NOCN Directors and Board of Trustees.
  - NOCN core, sub-contracted and associate staff, including External Quality Assurers (EQAs).
  - All staff of NOCN subsidiaries and Delivery Partners associated with NOCN provision.
  - All staff in NOCN recognised and partner centres.
  - Learners registered on a NOCN qualification or non-regulated course or programme.
  - Qualification Regulators<sup>1</sup>.
  - Industry Regulators.

## 2. Purpose

- 2.01 The purpose of this document is to:
- Ensure that decisions made by NOCN are applied fairly, consistently and based on valid judgements.
  - Outline the judgements or decisions made by NOCN which can be appealed.
  - Outline the procedure for how an individual or a Centre can appeal against an applicable decision or judgement.
  - Outline the potential outcomes following NOCN's review of an appeal.
  - Support adherence to the Conditions of Recognition by the various Qualification Regulators.

## 3. Policy

- 3.01 NOCN aims to ensure that all of the decisions made by its staff and representatives are fair, consistent, based on valid judgements and are in line with the latest versions of NOCN policies and procedures. The appeals policy and procedure allows for a learner or a Centre to submit an appeal where they believe that NOCN has not applied its policies or procedures properly, fairly or consistently.
- 3.02 Where a learner wishes to appeal a decision made by a Centre, the learner must appeal and exhaust the Centre's own appeals procedure first. NOCN can only hear appeals regarding the

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<sup>1</sup> Ofqual in England; Qualification Wales; CCEA Regulation in Northern Ireland or successor bodies.

delivery and assessment activities of NOCN products and cannot hear appeals regarding other factors, such as Centre fees.

- 3.03 NOCN cannot accept appeals from third parties, such as an employer or a relative of a learner, unless the learner is in exceptional circumstances. These individuals may wish to refer to the NOCN Complaints Policy and Procedure. Where it is deemed acceptable by NOCN, the appellant will be requested to provide written confirmation of the learner's wishes to be represented in the appeal, to allow it to be heard.
- 3.04 Under this policy, centres and learners can appeal to NOCN regarding decisions made surrounding the training, assessment and quality assurance of NOCN regulated qualifications, non-regulated provision and endorsed programmes. This includes, but may not be limited to, decisions or judgements regarding:
- a) The examination result of a learner.
  - b) The outcome of a Centre-marked assessment.
  - c) The outcome of NOCN scrutiny of a Centre-marked assessment.
  - d) An application for reasonable adjustment or special consideration.
  - e) Validity of a NOCN assessment.
  - f) Application of a Sanction, including Centre withdrawal. Please note that centres cannot appeal Sanctions which have been applied due to inactivity or for financial reasons.
- 3.05 If an individual wishes to appeal a decision made by NOCN which is outside of the types above, the individual should contact NOCN in the first instance for advice on whether an appeal can be heard. In the majority of cases, the NOCN Complaints Policy and Procedure will apply instead.

## I. Appeal Reviewers

- 3.06 NOCN offers a **2-stage** appeals procedure. The first stage must be completed before progression to the second stage. The two stages are referred to as:
- a) **Stage 1 – Appeal.** This is the first stage of the appeal process and will allow for NOCN to conduct its own review of the appellant's case.
  - b) **Stage 2 – Independent Review.** This stage allows for there to be an independent assessment of the appellant's case.
- 3.07 At Stage 1 of the appeal procedure, NOCN will ensure that the decision maker is an appropriate and competent individual who was not involved in the making of the original decision.
- 3.08 At Stage 2 of the appeal procedure, the appeal will be heard by members of an Independent Review Panel. The panel will consist of a minimum of 3 individuals. As a minimum, 1 individual will be a member of the NOCN Board of Trustees and 1 will be an independent person who is not an employee, Assessor or otherwise connected to NOCN, outside of their role in reviewing the appeal. NOCN will ensure that the chosen members of the Independent Review Panel have not been involved in the making of the original decision or involved in Stage 1 of the appeal procedure.
- 3.09 At both stages of the appeal procedure, NOCN will carefully select its appeal reviewers to ensure that no decision regarding an appeal is made by an individual who has a personal interest in its outcome. This will be ensured and monitored through the NOCN Group Conflict of Interest Policy and Procedure. It is at NOCN's discretion to select and assign its appeal reviewers, which will be in line with this policy and procedure.

## II. Applicable Fees

- 3.10 There are applicable fees at both stages of the appeal procedure. A full list of fees can be found within the NOCN Fees and Charges document, available on the NOCN website. NOCN is not responsible for any loss of income or any other monetary ramification that may occur for the appellant, or for their business, before, during or after the appeals procedure. All fees paid for by the appellant are non-refundable, unless their appeal is upheld at any stage or if it is deemed as not in scope. In this case, the appeal fee(s) will be refunded.
- 3.11 Upon receipt of an appeal, NOCN will request that the appropriate payment is made from the appellant. For centres, NOCN will produce an invoice in line with its standard invoicing procedure. Learners should contact the NOCN Finance Team for further information and guidance regarding available payment options.
- 3.12 Any decisions regarding an appeal will not be made by NOCN until confirmation has been received from the NOCN Finance Team that the appropriate appeal fee payment has been made. Please note that timescales in this policy will not be adhered to where there is a delay in, or failure of, payment. Any new timescales will be communicated to the appellant via email from the Quality Assurance Team once payment has been received.

## 4. Stage 1 – Appeals Regarding Examination Results

- 4.01 To submit an appeal at Stage 1, the appellant must complete and submit the NOCN Application for Stage 1 Appeal form (available on the NOCN website) **within 20 working days** of the examination result being issued to the Centre. The completed form must be submitted to [assurance@nocn.org.uk](mailto:assurance@nocn.org.uk) (or Delivery Partner equivalent).
- 4.02 Regarding written examinations, there are two types of appeal available:
- a) Remark of script – a subject expert, differing from the original marker, will re-mark the script.  
**OR**
  - b) An individual feedback report and remark of script – a subject expert will review the learner’s examination and will provide a comprehensive feedback report on areas of strength and outline areas for learning and development. The feedback will not provide feedback on responses to individual questions. The learner’s script will also be re-marked.
- 4.03 In submitting their appeal, the appellant must:
- a) State the reason(s) for their appeal.
  - b) Be aware that their appeal may result in the result/grade being lowered.
  - c) Provide the original certificate (where one has been issued) or a copy of the official notification of results from NOCN.
  - d) **Centre only:** Provide a signed declaration by the learner confirming their wishes to appeal.
  - e) **Learner only:** Provide a copy of photographic identification.
- 4.04 NOCN will provide acknowledgement to the appellant within **5 working days** of receipt of their appeal.
- 4.05 NOCN will aim to respond to all appeals **within 20 working days** from its acknowledgement, however, there may be instances where this is not possible. Where timeframes are required to be extended by NOCN, the appellant will be informed of the new timeframes by NOCN via email.

- 4.06 There are three possible outcomes to the appeal regarding an examination result:
- The examination result is confirmed.
  - The examination result is upgraded, for example, from a fail to pass. NOCN will amend its records and, where applicable, will issue any due certificates. NOCN will issue a refund of the appeal charge.
  - The examination result is downgraded. The revoking of a certificate will depend on the new examination result.
- 4.07 If the original result is downgraded or ratified, then the appellant may wish to progress their appeal to **Stage 2**. NOCN will provide the appellant with instructions regarding appealing at Stage 2 in the correspondence from the outcome of Stage 1. For further information, refer to Section 6.
- 4.08 Centres can also contact [assurance@nocn.org.uk](mailto:assurance@nocn.org.uk) to enquire about the following services, where appeal procedures do not apply:
- For written examinations: An individual feedback report – a subject expert will review the learner’s examination and will provide a comprehensive feedback report on areas of strength and outline areas for learning and development (charges apply).
  - For Multiple-choice examinations: A free administration check of multiple-choice examinations where this is not electronically marked.

## 5. Stage 1 – All Other Appeals

- 5.01 Dependent on the circumstances regarding an appeal, NOCN may be able to provide a learner or Centre with clarification or evidence to support the decision being appealed. The provision of this information may negate the need for an appeal and therefore individuals should contact NOCN in the first instance to see if the issue can be informally resolved.
- 5.02 If the individual is still not satisfied, they can submit an appeal at Stage 1 to NOCN (see 3.04). To submit an appeal at Stage 1, the appellant must complete and submit the NOCN Application for Stage 1 Appeal form (available on the NOCN website) **within 20 working days** of the decision being made by NOCN. The completed form must be submitted to [assurance@nocn.org.uk](mailto:assurance@nocn.org.uk) (or Delivery Partner equivalent).
- 5.03 Where a learner wishes to appeal to NOCN following their exhaustion of a Centre’s own appeals procedure, they must submit their Stage 1 appeal to NOCN **within 10 working days** of the appeal decision being communicated to them by the Centre.
- 5.04 In submitting their appeal, the appellant must:
- State the basis for their appeal. This must be relevant and on reasonable grounds (as outlined in 5.05 and 5.06).
  - Centre only:** Provide a signed declaration by the learner confirming their wishes to appeal.
  - Learner only:** Provide a copy of photographic identification.
  - Learner only:** Provide the written outcome of the Centre’s internal appeals procedure.
- 5.05 The information and evidence provided by the appellant must only reference the decision being appealed. Appeal applications which raise matters that are not relevant to the decision being appealed will not be considered.

- 5.06 Appellants must ensure that their appeal is based on reasonable grounds which relate to the decision in question. The grounds for the appeal must demonstrate how NOCN did not apply its policies and procedures fairly in the making of the decision. Reasonable grounds for an appeal include where an appellant believes that:
- NOCN has not applied its policies or procedures properly, fairly or consistently.
  - The decision made by NOCN was unreasonable and/or disproportionate to the seriousness of the case.
  - Further evidence has come to light since the decision was made, which may counteract the decision and/or NOCN's findings.
- 5.07 Once received, NOCN will review the appeal to determine whether it is in or out of scope. This decision will be based on:
- Whether the grounds of the appeal are valid, relevant and reasonable, in line with this policy and procedure.
  - Whether there is evidence to suggest or demonstrate that NOCN policies or procedures may not have been followed consistently and/or applied fairly.
  - Whether the appeal has been submitted in line with required timescales detailed within this policy and procedure.
- 5.08 In all cases, NOCN will provide acknowledgement to the appellant within **5 working days** of receipt of their appeal. At this point, NOCN will confirm whether the appeal is in or out of scope. If an appeal is deemed not in scope, NOCN will write to the appellant providing the reasons why it cannot be reviewed. If an appeal is deemed out of scope, the appeal fee will be refunded.
- 5.09 Upon its acknowledgment of an appeal, NOCN may request further information or supporting evidence to be supplied by the appellant. If this is the case, NOCN will confirm this to the appellant and provide a deadline for the submission of the requested information. The appeal will not be considered by NOCN until the required supporting evidence or information has been submitted. If the information is not submitted within the deadline provided by NOCN, the appeal will be automatically rejected.
- 5.10 Once an appeal has been deemed in scope, NOCN will assign the case to an internal appeal reviewer. The reviewer will complete a formal and evidence-based review of the appellant's case. The review will consider:
- The evidence and records which were used and relied upon by the NOCN representative in the making of the original decision.
  - The contents of the appeal itself, alongside its supporting evidence.
  - Current NOCN policies and procedures.
  - Any relevant precedents or Regulator directives and guidance.
  - Any other evidence which may be relevant to reach a sound decision regarding the appellant's case.
- 5.11 NOCN will aim to respond to all Stage 1 appeals **within 20 working days** from its acknowledgement, however, there may be instances where this is not possible due to the circumstances regarding the appeal. Where timeframes are required to be extended by NOCN, the appellant will be informed of the new timeframes by NOCN via email.
- 5.12 In all cases where an appeal is reviewed, a decision letter will be provided to the appellant (via email), which will contain the appeal reviewer's decision, alongside written confirmation of how this decision was made.

5.13 There are two possible outcomes to an appeal:

- a) The appeal is rejected - The original decision made by NOCN will stand.
- b) The appeal is upheld - NOCN will issue a refund of the appeal review fee and will review the findings to consider the best and most appropriate corrective action. Refer to Section 7 for further information.

5.14 If the appeal is rejected, the Centre may wish to progress their appeal to **Stage 2**. NOCN will provide the appellant with instructions regarding appealing at Stage 2 in the Stage 1 outcome letter. For further information, please refer to section 6.

## 6. Stage 2 – Independent Review Panel

6.01 Stage 2 is only available to individuals who have exhausted Stage 1 of the appeal procedure. At Stage 2, appeals are reviewed by an Independent Review Panel. The Independent Review Panel ensures there is an independent review for the appeal if the appellant is not satisfied with the outcome of Stage 1.

6.02 All appeals at Stage 2 must be submitted to NOCN **within 10 working days** of the appellant receiving the outcome of the Stage 1 appeal.

6.03 In submitting their appeal, the appellant must:

- a) State the basis for their appeal, ensuring that they detail how they believe NOCN did not make a fair or valid judgement, or did not follow its own policies and procedures, during the making of its original decision.
- b) Ensure that all documentary evidence to support their appeal is submitted at the same time as the appeal request. This documentary evidence will be provided to the Independent Review Panel to allow the appellant's case to be reviewed.

6.04 The information and evidence provided by the appellant must only reference the decision being appealed. The appellant may wish to include references to the review at Stage 1 of the appeal and why they believe this did not satisfactorily address their case. Appeal applications which raise matters that are not relevant or are in addition to matters integral to the decision being appealed will not be considered.

6.05 NOCN will provide acknowledgement to the appellant within **10 working days** of receipt of their appeal. In its acknowledgment of the appeal, NOCN will confirm whether the appeal is in or out of scope. At this point, NOCN will instruct the NOCN Finance Team to raise the appropriate appeal review fee.

6.06 Once an appeal has been acknowledged by NOCN, the appellant is not permitted to submit, provide or refer to any additional evidence, other than that which was provided at the time of the appeal submission, unless requests for additional evidence are made by the members of the Independent Review Panel.

### I. Independent Review Panel Hearing Arrangements

6.07 If an appeal is deemed as in scope, the Quality Assurance Team will begin to make arrangements for the Independent Review Panel hearing. This includes selecting the individuals who will attend the panel on behalf of NOCN and selecting the members of the Independent Review Panel, in line with the selection criteria detailed in this policy and procedure.

- 6.08 The appellant will be invited to represent themselves and may wish to nominate another individual to attend the hearing alongside them for support. Members of the Independent Review Panel will allow a maximum of two individuals to represent each party (minus legal representation), unless there are specific requests from a Panel member for witnesses to attend.
- 6.09 The Independent Review Panel hearing is not a court of law and therefore neither party requires legal representation. If the appellant wishes for a legal representative to attend, the Quality Assurance Team must be informed prior to arrangements being confirmed. NOCN will confirm if its own legal representative will be in attendance.
- 6.10 Once the Quality Assurance Team has confirmed the date and arrangements of the Independent Review Panel hearing, there must be no further contact between the parties representing NOCN at the appeal and the appellant(s) until the meeting of the Independent Review Panel.
- 6.11 Prior to the hearing, the members of the Independent Review Panel will meet and will select a chair. The chair will be responsible for facilitating the hearing to ensure a smooth running of events.
- 6.12 The Independent Review Panel members may request the submission of further evidence from either party before the panel hearing if they have determined they require this to ensure the appeal is appropriately reviewed.

## II. Meeting of the Independent Review Panel

- 6.13 Within **30 working days** of its acknowledgement of the Stage 2 appeal, the Independent Review Panel hearing will be held to allow both parties to present their case. The hearing will usually be held by teleconference to allow for a timely review. An agenda will be circulated to all individuals prior to the hearing.
- 6.14 For audit purposes, all Independent Review Panel hearings are recorded by NOCN and will be stored on NOCN systems for a period of 3 years. Attendance at the hearing by an individual will be taken as acceptance of the meeting being recorded. Following the conclusion of the hearing, NOCN will provide a copy of the recording to the appellant upon request.
- 6.15 The purpose of the Independent Review Panel is to review and consider the evidence provided from both parties to establish whether NOCN followed its own policies and procedures properly and fairly in the making of the original decision. Each party will be provided with equal allotted time slots to present their case. There will also be time for the panel members to ask any questions of either party.
- 6.16 The Chair of the Independent Review Panel will be responsible for ensuring that the panel hearing is effective. This includes ensuring each party has an equal opportunity to present their case and that matters from both parties remain relevant.
- 6.17 The panel meeting provides an opportunity for the Independent Review Panel to hear the case from both parties and for this reason, both parties must be in attendance. If the appellant fails to attend, NOCN will cease to hear the appeal any further and the original decision will stand.

## III. Independent Review Panel Decision

- 6.18 Following the Independent Review Panel hearing, the appeal reviewers will convene to make their decision. The appeal reviewers will aim to make a unanimous decision, although this may

not be possible in all cases. Where it has not been possible, the majority decision will be the decision of the panel. Each appeal reviewer will provide their decision in writing to NOCN no later than **5 working days** from the date of the panel hearing.

6.19 Once all decisions have been received, NOCN will confirm the Independent Review Panel's decision in writing to the appellant. A rationale for the panel's decision will be provided. There are two possible outcomes:

- c) The appeal is rejected - The original decision made by NOCN will stand.
- d) The appeal is upheld - NOCN will issue a refund of the appeal review fees and will review the panel's findings to consider the best and most appropriate corrective action.

6.20 Where the appeal is upheld, NOCN will take due regard of the Independent Review Panel's decision and may:

- a) Consider and implement measures for quality improvement.
- b) Amend the Centre and/or individual's record with NOCN to reflect the new rationale/evidence which has been reviewed.
- c) Re-examine its investigation findings in light of the new rationale/evidence which has been reviewed. Dependent on the nature of the new rationale/evidence, NOCN may remove or lessen an applied Sanction.

6.21 In all cases, the Independent Review Panel's decision is the final decision made by NOCN regarding the appeal. Should the appellant not be satisfied with NOCN's response to their appeal, they may wish to contact the Qualification Regulators.

## 7. Reviewing Approach

7.01 Where the outcome of an appeal has identified a failure in NOCN policy, procedure or system, NOCN will review the failure to determine whether an Adverse Effect<sup>2</sup> has occurred. Where this is the case, the relevant Qualification Regulator(s) will be informed.

7.02 Under the direction of the Responsible Officer, NOCN will identify, review and correct any other decision or judgement that may have occurred or been affected due to the identified failure of its policy, procedure or system. Where this is the case, NOCN will contact affected centres or learners to inform them of the action being taken by NOCN to mitigate the Adverse Effect. NOCN will also take all reasonable measures to implement changes and improvements to prevent a similar re-occurrence.

7.03 Where weaknesses in its policies, procedures or systems are identified rather than failures, NOCN will consider the implementation of quality improvement and strengthening measures, where this is possible and appropriate. For this reason, the outcome of all appeals will be reported to the NOCN Quality Assurance Committee in order for NOCN's approach to be kept under review and for any lessons-learned exercised to be completed.

## 8. Compliance with Regulator Appeals Processes

8.01 NOCN will ensure that in all cases, it will comply with all of the requirements of any appeals process established by the Qualification Regulators.

<sup>2</sup> **Definition:** An act, omission, event, incident or circumstance which gives rise to prejudice to learners or which compromises the standards of, or public confidence in, NOCN qualifications.

- 8.02 Where a failure in NOCN policies, procedures or ways of working, including in its assessment processes, are identified during a Regulator appeal, NOCN will take all reasonable steps to identify any centres or learners affected by the failure, mitigate the effect of the failure as far as possible and implement measures to prevent re-occurrences.
- 8.03 Where a Regulator notifies NOCN of a failure of another Awarding Organisation, NOCN will investigate as to whether a similar failure has occurred, or is likely to occur, in its own practices.
- 8.04 In all of these instances, NOCN will take the same action to address identified failures as it would if the failure had been discovered as part of its own appeals policy and procedure, as outlined in 7.02.

## 9. Document Control

- 9.01 This policy is maintained by the Quality Assurance Team and will be reviewed and updated where necessary to reflect updated legislation, customer feedback, improvements of operation and changes to the regulatory environment. If you have any queries regarding the contents or the use of this policy, please contact the Quality Assurance Team directly on [assurance@nocn.org.uk](mailto:assurance@nocn.org.uk).
- 9.02 All NOCN policies and procedures are signed off by the NOCN Responsible Officer. The latest versions of which can be found on our website here: <https://www.nocn.org.uk/support/nocn-group-policies/>.