



<b>Policy</b>	NEBDN Appeals Policy and Procedure
<b>Effective Date</b>	24 <sup>th</sup> June 2021
<b>Date Last Reviewed</b>	May 2023
<b>Scheduled Review Date</b>	May 2026
<b>Supersedes</b>	n/a
<b>Owned by</b>	NEBDN Executive
<b>Monitored by</b>	Governance and ESC
<b>Approved by</b>	NEBDN ESC and Governance Committee on 9 <sup>th</sup> May on behalf of Board of Trustees

### **Purpose**

This Policy and Procedure reflects the need for NEBDN, as an awarding organisation, to establish, maintain and comply with a fair, transparent, and consistent process of appeal against decisions made in relation to NEBDN's qualifications or quality assurance decisions. It sets out the process for Learners registered with NEBDN, Providers and other Stakeholders should follow when submitting appeals to NEBDN and the process NEBDN will follow when responding to such appeals.

### **Scope**

The Policy and Procedure applies to Provider's applying for or who have been recognised by NEBDN and Learners (who are registered with NEBDN on an NEBDN qualification) who wish to appeal against a decision of NEBDN in relation to an NEBDN qualification, end point assessment or quality assurance decision. All Providers should have a local Appeals policy for any decisions made by them and the local appeals process must have been exhausted before raising it to NEBDN.

### **Policy Statement**

The objective of this Policy is to ensure that an appeal by a Learner or Provider against a decision made by NEBDN in relation to one of its qualifications or Quality Assurance decisions, actions or sanctions is subjected to a fair evaluation and to ensure all appeals are dealt with in a transparent and consistent manner. Provider staff and Learners should be aware of this policy. The Procedure to be followed when making or processing an appeal is set out in Appendix 1.

Any Learner or Provider working with NEBDN has the right to appeal NEBDN decisions such as:

- malpractice decision
- monitoring and moderation outcome
- assessment outcome
- inconsistent application of procedure/policy

### **Learner/Apprentice Appeals**

- Appeals relating to an assessment decision on the basis that NEBDN did not apply procedures consistently or that procedures were not followed properly and fairly.
- Appeals relating to an NEBDN decision to decline a request to make reasonable adjustments or give extenuating circumstances should be made under the Appeals Policy.



### Provider Appeals

- Appeals relating to the application by NEBDN of a sanction/action on a Provider resulting from a verification activity or visit, an investigation into malpractice or maladministration or a decision to adjust a Learner/set of Learner results following a malpractice or malpractice investigation.
- Appeals relating to an NEBDN decision concerning a Provider's application to offer an NEBDN qualification.
- Appeals relating to the contents of a Provider monitoring report from NEBDN or to any outcome from NEBDN's external quality assurance activities, for example a report from a Quality Assurance Auditor or adjustment to a learner(s) result following an investigation.
- Appeals relating to a decision made by NEBDN following an investigation into a complaint about a Provider.

### Employers (End Point Assessment Appeals)

- The results of EPAs where the NEBDN did not properly, fairly, or consistently follow procedures.
- The conduct of EPAs.
- Decisions about Reasonable Adjustments and Extenuating Circumstances relating to apprentices taking an EPA.

This list of appeals is not exhaustive and NEBDN reserves the right to apply the appeals policy when appropriate and also return an appeal as not within the scope of appeals.

- Only relevant appeals will be considered and will be managed through consistent, fair, and transparent procedures in a timely way.
- All appeal decisions will be taken by individuals who have no personal interest or connection to the decision being appealed.
- All appeal decisions will be taken by persons who have appropriate competence.
- All responses for the outcome of appeals will be delivered within acceptable, agreed timelines (see below).
- Confidentiality will be maintained appropriately.
- Information on the appeals policy and procedure will be available on the website.

### There are alternative policies for other issues and the appropriate one should be used.

Complaints Policy	For raising concerns as to NEBDN Staff or organisational decisions and or actions. Complaints about Providers may only be referred to NEBDN once the local complaint process has been exhausted; evidence of outcomes should be shared with NEBDN
Raising Concerns Policy	This specifically relates to patient safety under the 'Standards for the Dental team'. GDC guidance and support may be appropriate before making a disclosure
Whistle Blowing Policy	Raising a wrongdoing within an organisation when there is a genuine concern about a crime, criminal offence, miscarriage of justice, dangers



	to health and safety and to the environment – and of the cover up of these.
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### Appeals not covered by this policy and procedure.

For the sake of clarity an appeal cannot be made on the basis of a Learner or Provider:

- claiming that a higher mark was deserved following a difficult exam based on other perceptions of a Learner's considered knowledge or ability.
- disappointment with a result where marks have been accurately recorded, assessment regulations correctly followed and where no evidence of material irregularity exists.
- challenging the quality or relevance of the teaching provided during the programme.
- questioning the content of the curriculum unless questions related to topics not included in the outline curriculum were included in the assessment.

### Responsibilities

NEBDN's Board of Trustees has overall accountability for this policy and its implementation via the Education and Standards Committee (ESC). Day to day responsibility for the effective operation of this policy is delegated to the Responsible Officer (RO), who is a senior NEBDN manager. The RO is a specific role required by regulators, such as Ofqual, who communicate and liaise with them on behalf of NEBDN.

The Board will ensure:

1. There is a fair and consistent approach to dealing with appeals, and to the application of the appeals procedure.
2. Appeals are reviewed and monitored to ensure any organisational improvements are made where needed.

Providers and Learners must be aware of this policy and procedure. All Providers must have internal appeal arrangements which Learners can access if they wish to appeal against a decision taken by their Provider. If an individual Learner wishes to appeal against a decision taken by their Provider, they must first go through the Provider's appeals process before bringing the matter to NEBDN only in exceptional circumstances. Learners should be aware that results can go up as well as down and therefore Providers should have written permission from a Learner before appealing their result(s).

Employees and Associates are expected to:

1. Be aware of this policy and process
2. Follow this policy and process to protect the interests of NEBDN, Learners and ensure compliance with regulatory requirements.

Managers in relevant roles are responsible for ensuring that:

1. All employees are aware of and follow this Policy and Procedure



## Policy Review

### Post Appeal Review

An anonymised final report of the outcomes of all appeals will be sent to the Education and Standards Committee (ESC) for discussion of any changes that may be required to assessment processes. A redacted final report will also be sent to Governance Committee for consideration of changes to any Policy and Procedure that may be required before the planned annual policy review.

### Regular Review

NEBDN through ESC and the Governance Committee will review the policy and procedure regularly as part of self-evaluation arrangements and may also revise the policy and procedure as and when necessary, in response to Staff, Associates, other Stakeholders, Providers and Learner feedback or requests from, or good practice guidance issued by, the regulatory authorities (e.g. to align with any appeals and complaints process established by the regulatory authorities such as Ofqual).

### Situations brought to NEBDN's attention.

Where NEBDN becomes aware of a failure or major incident in another Awarding Organisation, NEBDN Staff, such as the Responsible Officer will review whether a similar failure could affect NEBDN assessment processes and arrangements and this and any proposed mitigation will be notified to the Education and Standards Committee.

It is the RO's responsibility, or the regulation team, to notify Ofqual of any failures in NEBDN process that gives rise to an Adverse Effect (as per Incident Management Policy)

In situations following identification of any issues or a notification from Ofqual indicating a failure in NEBDN processes, NEBDN will give due consideration to the outcome and will as appropriate take actions such as:

- amending the profile of a Provider
- identifying any Learners who might have been affected and correct or, where it cannot be corrected, mitigate as far as possible the effect of the failure (e.g., and adjust the results for the Learner(s) affected)
- reviewing NEBDN's associated processes and policies to ensure that the 'failure' does not occur again or to mitigate the situation as far as possible if the failure that occurred cannot be corrected.
- cooperating with any follow-up investigations required by the qualifications regulators and if appropriate agreeing any remedial action with them.

### Fees

NEBDN will charge Learners a £50 fee to cover the administrative and personnel costs involved in dealing with appeals if it is considered valid following an informal review. This will be refunded if the appeal results in a change. Learners and Providers are strongly encouraged to consider the scope and focus of the Appeals Policy to ensure appeals are made appropriately.

### Definitions

For the purposes of this Policy and Procedure an appeal is defined as the process where a Learner or Provider requests a formal change to a decision made by NEBDN in relation to an NEBDN qualification.



Throughout the document the following terminology is used:

- **Apprentice** – An individual who receives apprenticeship and, where applicable end-point assessment through an apprenticeship framework or standard, funded by the ESFA.
- **Apprenticeship** – is a job with an accompanying skills development programme.
- **Associate** – term applied to all those involved with NEBDN assessments including External Examiners.
- **Claimant** – Learner or Provider submitting an appeal.
- **Provider** – approved organisation providing quality assured NEBDN teaching and learning to Learners to enable them to sit assessments to achieve the award of an NEBDN qualification.
- **Education and Skills Funding Agency (ESFA)** – the national organisation that funds all education in England (not including higher education) including apprenticeships
- **Independent Investigator** – individual unconnected with NEBDN who is appointed by the Responsible Officer to lead formal investigations or reviews.
- **Learner** – individual attending and registered by NEBDN on an educational course provided by a recognised Provider.
- **Reviewing Manager** – individual manager who initially reviews the Appeal and associated documents.
- **Staff** – NEBDN contracted employees.
- **Stakeholder** – term used to identify anyone linked with the business of NEBDN.
- **Trustee** – Member of the Board of Trustees
- **Provider tutor/assessor** – this is the main link person that supports, mentors and assessing the apprentices' course work as part of their apprenticeship programme. They will also delivery training in the Provider to apprentices during the taught element of off the job training.



### **Questions**

If you have any queries about this policy, please email NEBDN at [info@nebdn.org](mailto:info@nebdn.org) and your enquiry will be directed to an appropriate member of Staff or committee.

### **Reference Materials**

NEBDN Learner Appeal Form

NEBDN Extenuating Circumstances Policy and Procedure

NEBDN Complaints Policy

NEBDN Fees and Invoicing Policy

NEBDN Sanctions Policy

NEBDN Incidents and Issues Policy

Ofqual General Conditions of Recognition (<http://ofqual.gov.uk/>)



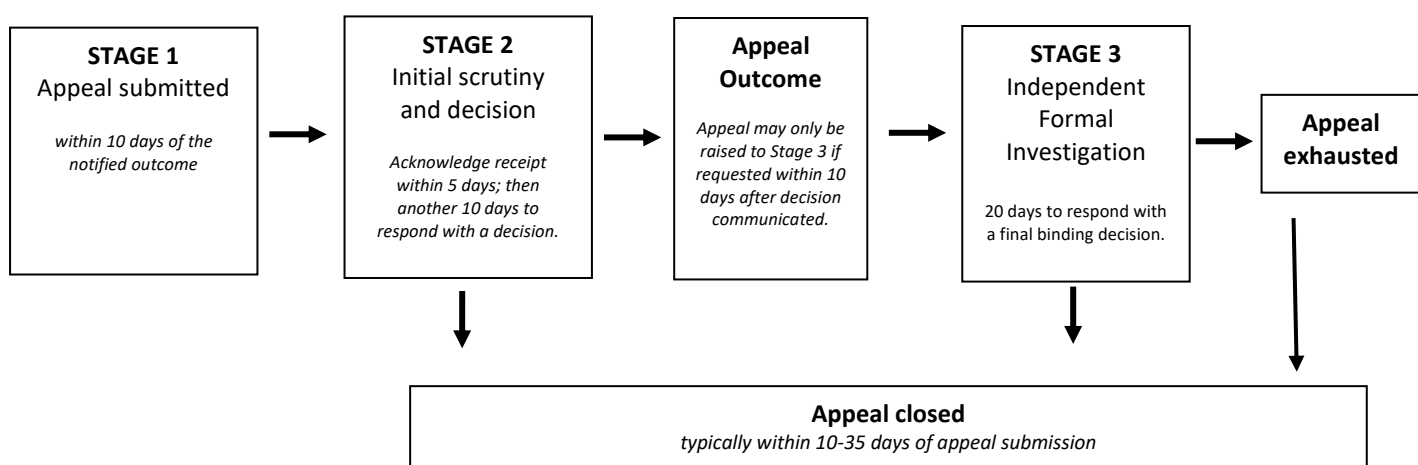
## Appendix 1

### Procedure for Appeals

There are three possible stages within an appeal:

- First stage: Appeal Form completed and submitted.
- Second stage: Initial Scrutiny to ensure appeal is within permitted grounds.
- Third stage: Independent Formal Investigation

### Summary of Appeal Process



### Stage 1: Appeal Form Submission

An appeal must be submitted by the published deadline and will not be accepted unless there is an exceptional reason for the late submission. Discretion may be exercised, and an appeal may be processed where it appears that issues may have impacted on the ability of a claimant to follow due process. The existence of these issues must be supported by Independent supporting evidence in writing. The decision of the Reviewing Manager (or nominee) in this respect will be final.

Learners or Providers should either use the online system to submit an appeal. In exceptional circumstances they should contact NEBDN to register an appeal and this must be submitted within 10 days of the publication of the relevant results, decision, or issue of a report. Appropriate evidence to support the appeal must be attached in support of any claims made in the appeal and further submissions will not normally be permitted unless requested at the Independent Formal Investigation stage.

Before submitting an appeal, Claimants are expected to have read the policy and apply only on permissible grounds. Claimants are advised to contact NEBDN for advice if they have any queries.

Where late appeals are refused, the appeals procedure will not be initiated. The decision of the Reviewing Manager (or nominee) in this respect will be final.

NEBDN Staff should ensure that all records and decisions are maintained in the CRM and or other systems for audit purposes.



### **Stage 1: Appeals**

Appeals should only be made by the appellant, for example, another individual acting in a legal capacity or an employee of NEBDN will not normally be accepted.

Note: Providers and Learners are not permitted to inspect or review any component of assessments.

Learner appeals will only be considered on permitted grounds according to the policy and the most common appeals relate to the following areas:

- **Re-evaluation**

A Learner may apply for a re-evaluation of the marks or marking of an assessment. NEBDN will permit a re-evaluation of the marks by two appropriate individuals, usually the Reviewing Manager and a Chief External Examiner. If a defect or irregularity in the conduct of the assessment or if the written instructions or written advice relating to an assessment can be shown to have had an adverse effect on the Learner's performance, re-evaluation of assessment, shall be permissible.

- **Extenuating Circumstances**

A Learner may apply for an appeal if they have been inappropriately turned down for an extenuating circumstance or that due process has not been followed in consideration of an extenuating circumstance. See the Extenuating Circumstances Policy.

### **Stage 2: Initial Scrutiny of Appeals Form**

The Reviewing Manager (or nominee) will acknowledge receipt of an Appeals Form within 5 working days of receipt. The appeal will be logged, and the Responsible Officer and Director of Education & regulation notified. If the form is incomplete or no evidence is attached, the Claimant will be advised to resubmit within 10 working days, or the matter will not be progressed to a formal stage of appeal.

The first stage is for NEBDN to undertake an initial, informal assessment of all evidence related to the potential appeal to ascertain if the issue can be informally resolved before the matter goes to the formal stage of appeal. The Director of Education & Regulation will authorise the Reviewing Manager (or nominee) to assess the appropriately completed claim and accept or reject the appeal.

If the Reviewing Manager has any involvement in the matter under appeal, they may not be responsible for allocating a member of Staff to carry out the initial scrutiny or for overseeing and managing the investigation and this will be passed to the Responsible Officer or other senior manager. In all instances NEBDN will ensure that the person carrying out this initial check does not have a personal interest in the decision being appealed.

The Reviewing Manager (or nominee) will be permitted to refuse any appeals based on any grounds that are not recognised

### **Stage 2: Decision Options**

Following the initial review of the potential appeal the Reviewing Manager will contact the Claimant within 10 working days with details of NEBDN's initial decision to either:

- a. Refuse the appeal as not submitted within permissible grounds.





- b. Amend the original decision in light of the new rationale/evidence being put forward and which has now been reviewed.
- c. Confirm NEBDN stands by the original decision and the rationale for this decision and request that the Claimant confirms, within 10 further working days, whether this decision is accepted or if the Claimant wishes to formally proceed to the NEBDN Independent Formal Investigation stage which will be carried out by an independent party.
- d. Progress to Independent Formal Investigation stage  
The decision will be reviewed by the Responsible Officer and an appropriate independent person appointed to review the appeal details to then be reported to the Learner (Claimant) within 10 days from the receipt of the initial appropriately completed request.

### **Stage 3: Independent Formal Investigation Stage**

If the appeal cannot be resolved in the informal stage the Responsible Officer will appoint an Independent Investigator to review that the process for dealing with the appeal has been undertaken in accordance with this policy and the Claimant will receive further information regarding the process and timeframe of the procedure.

At all times NEBDN will ensure that personnel assigned to manage the appeal investigation have the appropriate level of training and competence and they have had no previous involvement or personal interest in the matter. This stage will be carried out by someone who is not an employee of NEBDN, not an assessor or External Examiner, Associate or otherwise connected to NEBDN operations.

On appointment, the Independent Investigator will undertake a detailed review of the evidence and may arrange to examine additional documentation or interview individuals involved in the issue under appeal. The Independent Investigator will also consider if NEBDN have applied procedures fairly, appropriately, and consistently in line with NEBDN policy.

The Independent Investigator's decision is final in relation to how NEBDN will consider the outcome of the appeal and NEBDN will advise the claimant within 20 days of the start of the formal stage of the appeal process. If the claimant is still unhappy with the outcome at this final stage, they are entitled to raise the matter with the relevant qualification regulator.

### **Appeal Outcome**

The final decision on the outcome of any stage of an appeal will be sent for information to the Responsible Officer and shared with the Education and Standards Committee and subsequently the Board of Trustees. The final report will be submitted for information to the relevant Committee(s).

A Claimant will usually be notified of the outcome of their appeal within 10-15 working days of NEBDN receiving the appropriately completed NEBDN Appeal if settled through Stage 1 or a further 20 working days if the formal stage is followed (max 35 days).



Where the application of an appeals process leads to NEBDN discovering a failure in its policies or processes, it will take all reasonable steps to –

- identify any other Learners or Providers who may have been affected by the failure
- correct or, where it cannot be corrected, mitigate as far as possible the effect of the failure
- ensure that the failure does not recur in the future
- report the outcome to the appropriate regulator, e.g. in the case of an adverse effect

### **Guidance for Providers**

If you appeal on behalf of your Learners, you must ensure that you have obtained the written permission of the Learner(s) concerned as grades/results can go down as well as up as a result of an investigation.

Learners who wish to appeal about their assessment results or about a related decision should be supported by their Provider. It is expected that Learners will only appeal directly to us in exceptional circumstances.

Providers should either complete the Appeal online via Hub/CRM system or in exceptional circumstances provide via email to: [assessmentandawards@nebdn.org](mailto:assessmentandawards@nebdn.org) in order to submit an Appeal on behalf of a Learner and or the Provider and in doing so supply relevant supporting information such as the following where relevant:

- Learner's name and NEBDN registration number
- date(s) you or the Learner received notification of NEBDN's decision.
- title and number of the NEBDN qualification affected or nature of service affected (if appropriate)
- full nature of the appeal
- contents and outcome of any investigation carried out by you relating to the issue