



Enquiries, Complaints and Appeals Policy and Procedures

Enquiries, Complaints and Appeals Policy and Procedures

1. Purpose

Open Awards is committed to maintaining the highest standards for its Learners, Providers and other key stakeholders and to ensuring access to fair assessment for all its Learners.

This document outlines the basis on which enquiries, complaints and appeals can be made and outlines the process by which Open Awards ensures that they are dealt with quickly, fairly and effectively.

This policy is based on the assertion that all Open Awards' approved Providers have appropriate policies in place and that they adhere to the policies they have in place. This requirement is outlined in the Approved Provider Agreement.

This document is supported by the Open Awards *Reasonable Adjustments and Special Considerations Policy* which sets out how we will ensure that Learner needs are treated fairly. The policy is available via the Open Awards portal.

This document replaces all previous enquiries and appeals policies and procedures as from the operative date.

2. Scope

This document is applicable for the following Open Awards products:

Ofqual regulated qualifications and units	<input checked="" type="checkbox"/>
Access to HE Diplomas	<input checked="" type="checkbox"/>
Quality Endorsed Courses	<input checked="" type="checkbox"/>
Badge of Excellence	<input checked="" type="checkbox"/>
External Quality Assurance of apprenticeship EPAOs	<input checked="" type="checkbox"/>

3. Regulatory Authorities

The relevant regulatory authorities are Ofqual and Quality Assurance Agency for Higher Education (QAA). 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 a 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 Open Awards will inform Providers accordingly.

4. Audience

This document is for use by the following:

- Approved Providers delivering Open Awards approved qualifications and units
- Learners registered on Open Awards approved qualifications and units at an Approved Provider
- Open Awards staff to enable them to deal with all enquiries and appeals in a consistent manner

5. Definitions

Enquiries	Allow Providers and Learners to ask for clarification or exemplification on specific or general issues
Complaints	An expression of dissatisfaction with Open Awards operations such as our service, decisions made or the application of our policies and procedures.
Appeals	The process through which the outcome of a decision may be challenged.
Learner Appeal	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.
Provider Appeal	The process whereby a Provider challenges the result of an assessment or verification decision for one or more Learners that has been confirmed by Open Awards. The appeal process is distinct from a complaint.
Complainant	The Learner or Provider making a complaint.
Appellant	The Learner or Provider making an appeal.
Whistle-blower	A person who informs on a person or organisation regarded as engaging in an unlawful or immoral activity. Whistle-blowers may inform Open Awards confidentially.

6. Responsibility of Providers

- Providers must have internal enquires, complaints and appeals arrangements which Learners can access if they wish to appeal against a decision taken by the Provider.
- All Provider staff involved in the management, assessment and quality assurance of Open Awards qualifications must familiarise themselves with the Provider's enquiries, complaints and appeals policy and procedure.

- Learners on Open Awards qualifications and units must be made aware of the contents of the Provider's enquiries, complaints and appeals policy.
- Providers must ensure appeals are handled consistently and in accordance with this and the Provider's own appeals policy.
- All appeals in relation to decisions taken by the Provider must go through the Provider appeals process before the matter can be referred to the Open Awards appeals process.
- Providers should ensure that staff and Learners are made aware of the Open Awards policy and procedures, particularly the need to go through the provider appeals process before referring the matter to Open Awards.
- Providers should ensure that all concerned are aware of the time limits for submitting an appeal and of the need to retain assessment evidence where necessary.
- Open Awards reserves the right to require an Approved Provider to amend its procedures so as to be consistent with the guidance in this document.

7. Charges

Open Awards reserves the right to levy a charge on a Provider for handling an appeal that involves a re-mark of external assessment, an additional independent review or additional visit(s) to a Provider by one or more of its staff or for a Stage 2 (External Appeals Panel) Hearing. Where an independent review is necessary, this will be at the Provider's expense. Charges for additional visits are published annually in the Open Awards charges leaflet.

Fees for requests to re-mark Functional Skills external assessments

Review of marking (per Learner) - £25*

**Fee waived if the overall external assessment grade changes*

8. Policy

8.1 Enquiries

Open Awards is committed to dealing with enquiries from Providers and Learners promptly:

- We will acknowledge enquiries when we receive them, and no later than within 5 working days
- We will deal with simple telephone enquiries promptly
- We will appoint an appropriate member of staff to respond to the enquiry
- We will respond to written enquiries (email, letter) as soon as possible, and normally within 10 working days (complex enquiries may take a little longer).

8.2 Complaints

Open Awards aims to resolve complaints as quickly as possible and in most cases we will seek to resolve your complaint informally.

To make a complaint about any aspect of our service, in the first instance complainants should contact the Customer Service Team at Open Awards on 0151 494 2072, who will seek to rectify the situation as soon as possible.

In cases which cannot be resolved informally, written complaints outlining the reason for your dissatisfaction should be submitted via quality@openawards.org.uk marked for the attention of the Head of Quality and Standards.

Complainants should provide the following information to help us to understand your complaint:

- the full nature of the complaint
- when you became aware of the issue you are complaining about
- the nature of the service affected
- the Open Awards qualification/ course affected (if relevant)
- details of any relevant investigation carried out by the provider

Should the complaint fall outside the scope of Open Awards complainants will be advised of this in writing within 5 working days of receipt of the complaint.

Open Awards' Head of Quality and Standards will investigate the complaint and seek any further information that may be required. If the complaint is in relation to the Head of Quality and Standards, another member of the management team will lead the investigation.

Once we are satisfied that all information is available a conclusion will be reached. This will be communicated to the customer in writing within 15 working days of receipt of the form. However, if a conclusion cannot be reached within this time frame they will be notified in writing of the reasons why.

8.3 Confidentiality and whistle blowing

Sometimes a complainant may wish to remain anonymous. It is always preferable for the complainant to reveal their identity and contact details to us, but if the complainant is concerned about possible adverse consequences he/she may wish for **Open Awards** not to divulge their identity to third parties. If it helps to reassure the complainant on this point, **Open Awards** should confirm to the complainant that (as recommended by the regulators) it is not obliged to disclose information if to do so would be a breach of confidentiality and/or any other legal duty.

While **Open Awards** is prepared to investigate issues which are reported to it anonymously it will always try to confirm an allegation by means of a separate investigation before taking up the matter with those to whom the complaint relates. At

all times we will investigate such complaints from whistle-blowers in accordance with relevant whistle blowing legislation.

8.4 Appeals from Learners

Please Note: Open Awards does not arbitrate in cases of dispute between Learners and Providers.

All Providers are required to have complaints and appeals procedures in place in line with the conditions of recognition and Provider agreement, and we expect that all Learners are informed of these by the Provider as part of their induction.

Open Awards expects that most appeals made by a Learner in response to internal assessment decisions and the award of qualifications and units to be resolved internally by the Provider.

Learners must follow the Provider's appeals and complaints procedures **fully** prior to making an appeal to Open Awards about assessment decisions made by the Provider which impact on the award of Open Awards qualifications and/or units.

The Learner must make the Provider aware of his/her intention to submit an appeal to Open Awards and ask the Provider for written confirmation that they will release records relating to the appeal.

It is expected that Learners will only appeal directly to Open Awards in exceptional circumstances where a Learner is appealing against the conduct of an internal appeals procedure that they do not consider has been conducted fairly or in accordance with the Provider's published procedures. Open Awards will investigate the procedures used by the Provider to investigate the Learner's original appeal.

An appeal by a Learner must be in writing and signed and dated by the Learner. Appeals received by email will be accepted.

Learners have 30 working days from the date they were notified of the decision against which the appeal is addressing in which to lodge an appeal.

Where the appeal relates to provision that could provide entry to higher education, the enquiry will be expedited.

Open Awards does not wish to present a financial barrier to Learners wishing to make an enquiry or appeal and will therefore not levy any charges on individual Learners *unless it is found that the enquiry or appeal is frivolous or malicious.*

Appellants must be mindful that the outcome of Open Awards' investigations may affect Learner results. Final achievements could be either increased or decreased as a result of investigations into the appeal.

No person involved in making a decision at one stage in the procedures may be

involved in making a decision at any subsequent stage.

Where the outcome of an appeal brings into question the accuracy of other results, Open Awards will take steps to protect the interests of all Learners and 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 Provider.

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

8.5 Appeals from Providers

A Provider appeal must be in writing and signed and dated by the Principal or Chief Executive of the Provider. An appeal may be made by email but not by SMS text.

Full details of the appeal should be submitted, along with details of any investigations conducted by the Provider and any relevant supporting documents or evidence.

Where the appeal relates to the outcome of External Quality Assurance/Quality Review Compliance Monitoring, this must be *within 20 working days* of receipt of the EQA/LQR report. Where the appeal relates to any other matter, it must be received *within 30 working days*.

Open Awards only will deal with Provider appeals relating to:

- assessments and external assessment results;
- external quality assurance outcomes;
- the outcomes of Provider recognition;
- the application by a Provider to offer certain Open Awards products, units or qualifications;
- award of credit(s) or qualifications;
- outcomes of the annual compliance monitoring including any sanctions that may be imposed;
- sanctions applied as a result of maladministration or malpractice;
- errors made by Open Awards in the generation of certificates;
- outcomes of an application for reasonable adjustments/special considerations.

It will not be possible to take an appeal to a subsequent stage until the outcomes of the prior stage have been confirmed; in particular a Provider may not seek independent review until the outcomes of the appeal have been confirmed.

Where the appeal relates to provision that could provide entry to higher education, the enquiry will be expedited.

Where the appeal relates to externally marked assessments for Functional Skills qualifications, the person responsible for marking the original assessment will not be involved in the re-marking process.

No person involved in making a decision at one stage in the procedure will be involved in making a decision at any subsequent stage.

Appellants must be mindful that the outcome of Open Awards' investigations may affect Learner results. Final achievements could be either increased or decreased as a result of investigations into the appeal.

Where the outcome of an appeal brings into question the accuracy of other results, Open Awards will take steps to protect the interests of all Learners and 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 review of other recognition decisions.

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

8.6 Requests to re-mark Functional Skills external assessments

Learners and/or their parents or legal guardians are not permitted to submit re-mark requests directly to Open Awards. All requests for re-marks must be made by the centre. To request a re-mark of a Functional Skills **external assessment**, centres must have written authorisation from the learner(s). Evidence of learner authorisation must be retained for at least six months following the re-mark outcome and in line with data protection legislation. Evidence must be made available to Open Awards for external quality assurance purposes on request.

Centres must make learners aware that a re-mark may result in marks staying the same, being increased or being decreased.

Re-mark requests must be made on a completed Request for Re-Mark Form (RRM Form) and uploaded to the Portal within *20 working days* of receipt of external assessment results. The template form can be found on the Portal.

A senior examiner who was not involved in the original assessment decision will carry out a full review of the learner's assessment to ascertain whether or not the agreed mark scheme / standard has been applied correctly.

Open Awards will complete the review of marking within *20 working days* of a completed RRM Form.

Open Awards will inform the centre contact by email of the outcome of an enquiry within **5 working days** of the decision being made, in line with the timescales above. Should the re-mark process identify the need for changes to our systems or processes, such changes will be actioned at the earliest opportunity.

There are three potential outcomes of a request for a re-mark:

- the result or mark is confirmed as correct
- the result or mark is increased
- the result or mark is decreased.

For information on related fees please refer to **Section 7. Charges** of this policy.

9. Exclusions from this policy

9.1 Vexatious Correspondence or Behaviour

Open Awards staff will not engage with persistent/repeated contact from enquirers/appellants or abusive enquirers/appellants. Where an enquirer/appellant corresponds with Open Awards in an abusive manner or repeatedly and persistently contacts Open Awards with no new information or evidence to bring to investigations, Open Awards will treat such behaviour/correspondence as **vexatious**.

The following forms of behaviour or correspondence are considered vexatious:

- an enquirer/appellant being abusive or threatening, either during a telephone conversation, face to face meeting or in written correspondence.
- an enquirer/appellant repeatedly contacting Open Awards via telephone or email in a given working day without offering new evidence or information.
- Making unreasonable demands on Open Awards outside of the agreed remit of the investigation.
- Making accusatory remarks about Open Awards or the Open Awards' Representative managing the case.

In such circumstances, the enquirer/appellant will be referred to the Chief Executive.

9.2 Zero Tolerance

Open Awards endeavours to provide a service which is prompt, courteous, clear and responsive to customer needs. In order provide the best service; Open Awards is committed to the well-being of its staff and customers.

We expect those using our services and premises to treat other customers and our staff with the courtesy they expect to receive themselves.

Verbal abuse, harassment, disruptive behaviour and violence are unacceptable. In the event of any of these occurring, Open Awards will not hesitate to take action which could lead to the withholding of services, or prosecution.

10. Monitoring and Review

An annual report on any cases of appeal, including those not upheld, will be made available to the Open Awards Board of Trustees.

Open Awards will review the policy bi-annually as part of its self-evaluation

arrangements and revise it as and when necessary in response to customer and Learner feedback, changes in its practices, advice from the regulatory authorities or external agencies, changes in legislation, or trends identified from previous instances of malpractice or maladministration.

In addition, this policy may be updated in light of operational feedback to ensure our arrangements for dealing with appeals remain effective.

11. Related documents

This policy should also be read in conjunction with the following Open Awards documents:

- Centre Agreement
- Centre Handbook
- Access to HE Provider Handbook
- Maladministration and Malpractice Policy and Procedures
- Sanctions Policy and Procedures
- Reasonable Adjustments and Special Considerations Policy and Procedures
- Recognition of Prior Learning Policy and Procedures
- Plagiarism Policy
- Sanctions Policy

12. Regulatory Requirements

The Enquiries and Appeals Policy is designed to fulfil the requirements of our regulators. In particular:

Ofqual General Conditions of Recognition

- A4 Conflicts of interest
- A6 Identification and management of risks
- A7 Management of incidents
- A8 Malpractice and maladministration
- B3 Notification to Ofqual of certain events
- C1 Arrangements with third parties
- C2 Arrangements with Centres
- G4 Maintaining confidentiality of assessment materials
- H2 Moderation where an assessment is marked by a Centre
- I1 Appeals process
- I2 Compliance with Ofqual's appeals and complaints process

QAA AVA Licensing Criteria

Complaints and appeals

30, 31

Certification

47, 48

Provider approval and withdrawal of approval

50n, 54e

<i>Originator:</i>	<i>Head of Quality and Standards</i>
<i>Date of latest review:</i>	<i>May 2020</i>
<i>Date of last approval:</i>	<i>May 2020</i>
<i>Approved by:</i>	<i>Open Awards Management Team</i>
<i>Review interval:</i>	<i>Biennial</i>
<i>Next review due by:</i>	<i>April 2022</i>

Part B: Procedures for Enquiries, Complaints and Appeals

Stages of the process

Open Awards has defined five stages in the process for dealing with an enquiry, complaint or appeal.

Submission of an enquiry or appeal



Enquiries can be made informally, verbally or in writing. Open Awards will acknowledge an enquiry *within 5 working days*.

Where a Provider enquires on behalf of a Learner they must ensure that they have obtained written permission of the Learner concerned.

Open Awards will acknowledge an enquiry *within 5 working days*. We will appoint an appropriate member of staff to respond to the enquiry and will respond to written enquiries (email, letter) as soon as possible, and normally *within 10 working days* (complex enquiries may take a little longer).

Complaints can often be rectified immediately and therefore in the first instance should be directed to the Open Awards Customer Service Team on 0151 494 2072 who will seek to rectify the situation as soon as possible.

Where cases cannot be resolved informally written complaints should be submitted via quality@openawards.org.uk marked for the attention of the Head of Quality and Standards.

Appeals must be made in writing and should be addressed to the **Head of Quality and Standards** and submitted to quality@openawards.org.uk or at the following address:

Open Awards
Estuary Commerce Park
17 De Havilland Drive
Speke
Liverpool
L24 8RN

Where the appeal relates to the outcome of External Quality Assurance/Quality Review Compliance Monitoring, this must be *within 20 working days* of receipt of the EQA/LQR report. Where the appeal relates to any other matter, it must be received *within 30 working days*.

The appeal submission should provide:

- Learner name(s) and Open Awards Learner registration number(s)
- details of the qualification(s) or unit(s) affected
- full nature of the appeal
- details of any investigation carried out by the Provider relating to the issue
- in the case of an appeal submitted by a Provider on behalf of a Learner(s) the signature of the Learner(s) in question permitting the appeal
- all relevant supporting documents or evidence.

Investigations following receipt



Upon receipt of a complaint or appeal, an acknowledgement of receipt will be sent in writing to the appellant *within 5 working days*. An appropriate member of staff will be appointed to review the appeal.

Should the complaint fall outside the scope of Open Awards, complainants will be advised of this in writing *within 5 working days* of receipt.

The first stage will be to undertake an initial, informal review of the submission to ensure that it is complete. At this stage, Open Awards may seek any further information that may be required.

In all instances Open Awards will ensure that the person carrying out this initial check will not have a personal interest in the decision being appealed.

Outcomes of investigations into **complaints** will be communicated to the complainant in writing *within 15 working days* of receipt of the original submission. However, if a conclusion cannot be reached within this time frame the complainant will be notified in writing of the reasons.

For **appeals**, Open Awards will review all available information to ascertain whether the issue can be resolved before it goes to a formal appeal. Open Awards will report the outcome of their investigations to the appellant normally *within 30 working days* of receipt of the appeal. However if an appeal requires a re-mark of an external assessment, an independent review or Provider visit, this and the revised timescale will be agreed.

The process will be conducted fairly and consistently in line with regulatory requirements and Open Awards may request further information from the Provider, discussions with Learners, discussions with Provider staff or a Provider visit. Providers will be kept informed throughout the process.

Following the initial review of the submission appeal Open Awards will write to the appellant with details of the decision which will be either:

- to amend the original decision in light of the evidence put forward in the submission and which has now been reviewed, or
- to confirm that Open Awards stands by the original decision and the rationale for this decision.

Stage 1 Appeal



If the appellant is not satisfied with an outcome it may appeal and an **Internal Appeals Panel** will review the case. Open Awards will acknowledge an appeal *within 5 working days*.

The Internal Appeals Panel will include the Open Awards Head of Quality and Standards/ a member of the Open Awards Management Team and a Lead Quality Reviewer/ External Quality Assurer/ Moderator experienced in the subject area and process. None of the panel will have been involved with the initial enquiry or appeal. Open Awards will be responsible for ensuring that records of the proceedings are kept.

The Panel may request an independent review, more information, discussions with Provider staff or a visit to the Provider.

A report and recommendations will be produced assessing whether the processes and procedures used in order to meet regulatory requirements, have been carried out correctly and that any investigation has been conducted sufficiently and robustly.

Reports will usually be completed within 30 working days. Should no comment be received then the report will be confirmed as **final**.

Stage 2 Appeal



If the appellant is still not satisfied, an appeal may be made in writing to an **External Appeals Panel**, which will include a member of Open Awards Quality Team, a member of Open Awards Management Team and a member of the Open Awards Board or an independent member with quality expertise not employed by Open Awards.

The application must clearly set out the grounds of appeal. An appeal must be received within 10 working days of the report. Open Awards will acknowledge the appeal within 5 working days. The appeal will be heard within 20 working days of receipt.

Open Awards will be responsible for ensuring that records of the proceedings are kept.

The panel may request a re-mark of external assessment, an independent review, additional information, a discussion with the Provider and/or a visit to the Provider.

The focus of the Appeals panel will be to ensure the correct processes and procedures have been followed, consider whether Open Awards' procedures were consistent with the regulator's requirements and were properly and fairly applied, and whether in the event of a failure of procedures having been identified at an earlier stage, any remedial action subsequently taken by Open Awards was sufficient to rectify that failure.

The panel will ensure that Open Awards fully meet the regulatory requirements, and to confirm the validity of the previous investigation(s). The panel will produce a report and recommendations. Reports will usually be completed within 30 working days.

The decision of the Appeals Panel will be communicated to the appellant *within 10 working days* of the meeting and the conclusions reached by the External Appeal Panel will be **final**.

Next steps



Further avenues of appeal

Having **fully** exhausted Open Awards Enquiries and Appeals Policy, if an appellant is unhappy with the outcome of the appeal, they are entitled to raise the matter with the relevant qualification regulator to make a complaint.

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

Complaints
The Quality Assurance Agency
for Higher Education
Southgate House
Southgate Street
Gloucester
GL1 1UB

The Complaints Adjudicator
(Chief of Staff's office)
The Institute for Apprenticeships
and Technical Education
151 Buckingham Palace Road
London
SW1W 9SV

Implications

Should any part of an appeal lead Open Awards to discover a failure in its assessment process, Open Awards will take all reasonable steps to:

- identify other Learners who 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.

Where the outcome of an appeal questions the validity of other results at a Provider, Open Awards will take action to protect the interests of other Learners and the integrity of the award of qualifications and/or units. This may include, as appropriate:

- further review of Learners' work by Open Awards. *Up to 100% sample may be requested for verification purposes*
- review of the unit(s) of assessment through its unit review process
- review of the rules of combination for a qualification (if appropriate).

The Head of Quality and Standards will take responsibility for initiating the most appropriate course of action, and this decision will be taken in conjunction with the Chief Executive Officer.

Open Awards will inform the regulator immediately of adverse effects and instances where such action is required.

The Appeals Panels may make recommendations to Open Awards on issues and/or concerns that emerged during the respective Appeal proceedings. Any further work will always be carried out in full compliance with regulatory requirements.