



Changing lives through learning

Complaints

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Version History

Version	Date	Section(s)	Change(s) made
2.0	05/21	All	All content extracted from Enquiries, Complaints and Appeals Policy and Procedures which has now expired.
3.0	07/23	All	Terminology updated.
4.0	07/25	All	Review cycle and terminology/government bodies updated.
5.0	07/26	Definitions	Additional definitions added
5.0	07/26	Responsibility of providers	Retention of auditable record of complaints added
5.0	07/26	Policy statement	Wording updated for clarity. Route of escalation to regulators updated.
5.0	07/26	Regulatory requirements	Ofqual Principles added, QAA Access to HE Conditions added.

Purpose

Open Awards is committed to providing high-quality products and services, although we recognise that sometimes we may not meet our own or stakeholders' expectations.

This document explains how learners and apprentices registered on Open Awards products and services, employers, approved providers and other users of qualifications may raise a complaint about an Open Awards product or service, the conduct of Open Awards or its representatives, or the delivery of an Open Awards product by an approved provider.

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

Scope

This document is applicable for the following Open Awards products and associated services:

Ofqual-regulated qualifications and units, including	☒
Apprenticeship Assessments	
Qualification Wales regulated qualifications and units	☒
Access to HE Diplomas	☒
Quality endorsed courses	☒
Badge of Excellence	☒
Micro-credentials	☒
Experienced Worker Assessments	☒

Regulatory Authorities

The relevant regulatory authorities are Department for Education, Skills England, Ofqual, Qualifications Wales, Quality Assurance Agency for Higher Education (QAA), the Information Commission and The Charity Commission.

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 relevant 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 customers and stakeholders accordingly. We will ensure the most current version is accessible on our website.

Audience

This document is for use by the following:

- All staff at Open Awards approved providers.
- Learners registered on Open Awards qualifications and units at an approved provider.
- Private learners registered on Open Awards qualifications and units.
- Apprentices registered with Open Awards for apprenticeship assessment.
- Employers of apprentices registered with Open Awards for apprenticeship assessment.
- Parents/guardians/carers where the learner is under 16 or vulnerable and unable to adequately express their concerns
- Open Awards staff and Trustees.
- External contractors
- Whistleblowers with a genuine concern about the provision of application of an Open Awards product or service.

Definitions

Complaint	An expression of dissatisfaction about an Open Awards product or service, Open Awards' actions or omissions, or the delivery of an Open Awards product by an approved Provider, where a response or resolution is sought.
Complainant	The person submitting the complaint.
User of qualifications	A person or organisation with a legitimate interest in an Open Awards qualification or service, including learners, apprentices, representatives, Providers, employers and other stakeholders.
Whistleblowing concern	A disclosure of information which the person reasonably believes shows malpractice, maladministration, wrongdoing, a breach of legal or regulatory requirements, or a risk to learners or the public interest.
Vexatious or unreasonable behaviour	Behaviour that, because of its nature, frequency or persistence, has a disproportionate impact on Open Awards' ability to consider the matter fairly and efficiently. A complaint will not be treated as vexatious solely because it is persistent, challenging or critical.

Responsibility of Providers

- Providers must have complaints arrangements which learners/apprentices/staff can access if they wish to complain about the product or service received.
- All providers must have a complaints policy and procedures in place that align with the requirements of the Open Awards Provider Agreement/ Service Level Agreement and this policy.
- All learners/apprentices must be informed of these arrangements as part of their induction and relevant documents available to all learners throughout their course/practical period.
- All provider staff involved in the management, assessment and quality assurance of Open Awards qualifications and units must familiarise themselves with the provider's complaints policy and procedure.
- Learners on Open Awards qualifications and units must be made aware of the contents of the provider's complaints policy.
- Providers must ensure that complaints are handled consistently and in accordance with this document
- Providers must ensure that their own complaints policy includes all requirements of this document. Where any discrepancies apply, the terms of this policy take precedence.
- Providers must keep an auditable record of complaints relating to Open Awards products, including the issue raised, evidence considered, decisions, reasons, actions taken, timescales and any referrals to Open Awards. Records must be retained in accordance with the Provider Agreement and applicable data-protection and retention requirements.
- Complaints in relation to decisions taken by the provider must go through the provider complaints process before the matter can be referred to Open Awards, with the exception of apprenticeship assessment. In the latter case, complaints about the apprenticeship assessment services provided by Open Awards must be made directly to Open Awards.
- Providers should ensure that all concerned are aware of the time limits for submitting a complaint and of the need to retain assessment or other relevant 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.

Policy Statement

Open Awards is committed to providing high-quality products and services, although we recognise that sometimes we may not meet the expectations of our customers and stakeholders (including learners/ apprentices).

We welcome complaints and value feedback as an important indicator of how Open Awards can improve its products and services. Complaints will be handled fairly, consistently, impartially and without disadvantage to a complainant who raises a concern in good faith. Open Awards will make reasonable adjustments to the complaints process where required and will seek to resolve complaints informally where this is appropriate and does not compromise fairness, regulatory obligations or the need for a formal investigation. Requests for clarification or explanation will normally be treated as enquiries unless the person indicates continuing dissatisfaction or asks for the matter to be handled as a complaint.

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. All complaints will be handled sensitively and efficiently.

In cases which cannot be resolved informally, written complaints outlining the reason for your dissatisfaction should be submitted to customerservices@openawards.org.uk providing full details of the complaint including:

- The full name of the complainant.
- Contact details including a daytime telephone number.
- A full description of the complaint (including dates and times where appropriate).
- When the complainant became aware of the issue.
- The nature of the service affected.
- The Open Awards product/ service affected (if relevant).
- Where appropriate, details of any relevant investigation carried out by the provider, including evidence of the outcome.
- Copies of any evidence (e.g., papers, emails or letters) to do with the complaint.

Learner/staff complaints about a provider will only be considered once the learner has exhausted the provider's own complaints procedures and can provide evidence of this when the complaint is made to Open Awards. Please note, this does not apply to the apprenticeship assessment of apprentices whereby complaints about the apprenticeship assessment services provided by Open Awards must be made directly to Open Awards, who may refer the apprentice back to their provider depending on the nature of the complaint.

Where a learner is complaining about a provider, the complaint must be received by Open Awards *within 20 working days* of the complainant receiving the outcome of their complaint against the provider. Complaints about products or services directly provided by Open Awards must be submitted to Open Awards *within 20 working days* of the event occurring.

Open Awards may accept a late complaint where there are exceptional circumstances, the complainant could not reasonably have complained sooner, or the matter raises a serious risk to learners, qualification standards, public confidence or regulatory compliance.

Open Awards will acknowledge receipt *within 5 working days* and will advise the complainant whether the complaint is in or out of scope.

Complaints will normally be investigated by a suitably competent person who has not been directly involved in the matter complained about, has no conflict of interest and has sufficient authority to investigate and make or recommend a decision. The complainant and any person or organisation complained about will be given a fair opportunity to provide relevant information, subject to confidentiality, safeguarding, legal and regulatory constraints.

Open Awards will normally provide a full response *within 10 working days* of receipt of the complaint. Where this is not possible, Open Awards will explain the reason for the delay, identify any further information required and provide a revised target date. The outcome will summarise the issues considered, the evidence reviewed, the decision, reasons, any corrective action and the available route for review, escalation or referral.

Provider staff should normally use their provider's complaints or whistleblowing procedures first and only have their complaint considered by Open Awards once they can provide evidence of this. The complaint must be received by Open Awards *within 20 working days* of the complainant receiving the outcome of their complaint against the provider.

However, a person may raise a concern directly with Open Awards where they reasonably believe that using the provider's process would expose them or another person to detriment, compromise evidence, create a conflict of interest, cause unreasonable delay, or where the concern relates to serious malpractice, maladministration, safeguarding, qualification integrity or regulatory non-compliance. Open Awards will not require local procedures to be exhausted where this would be inappropriate.

Open Awards will acknowledge receipt within 5 working days and will advise the complainant whether the complaint is in or out of scope.

Appeals against a decision made by Open Awards are covered by the Enquiries and Appeals Policy and Process. Should a complaint be submitted which is in fact an

enquiry or an appeal, Open Awards will confirm the basis on which the issue is being addressed.

For the avoidance of doubt, a complaint is an expression of dissatisfaction about the standard of service, conduct, action, omission or administration of Open Awards or one of its providers, where a response or remedy is sought. An appeal is a formal request for Open Awards review a decision it has made, normally on the grounds that the decision was unreasonable, procedurally flawed, based on inaccurate or incomplete information, or inconsistent with the relevant requirements or published procedures.

Appeals against decisions made by Open Awards are managed in accordance with the Enquiries and Appeals Policy and Process. If a complaint is submitted that is more appropriately dealt with as an enquiry or an appeal, Open Awards will inform the provider, explain why the matter falls under the relevant policy, and process the submission accordingly. Details of the enquiries and appeals process are available in the Enquiries and Appeals Policy. Similarly, where an appeal concerns service delivery, conduct, delay or administration rather than an appealable decision, Open Awards may handle it under the Complaints Policy.

Where a submission contains both complaint and appeal matters, Open Awards may separate the issues and consider each under the relevant procedure. The person submitting the matter will be informed of how it has been classified, the reasons for that classification and the process that will apply. Reclassification will not normally affect the original date of receipt or unfairly disadvantage the person submitting the matter.

Where a regulator or other authoritative body notifies Open Awards of an issue affecting another awarding organisation or qualification which may have implications for Open Awards, the information will be assessed through Open Awards' risk management arrangements. It will be handled under this policy only where it constitutes a complaint about an Open Awards product, service or action.

Confidentiality and Whistleblowing

Open Awards acknowledges that occasionally a complainant may wish to remain anonymous. Whilst Open Awards is prepared to investigate issues which are reported to us anonymously, we will always try to confirm an allegation by means of a separate investigation before taking up the matter with those to whom the complaint/allegation relates.

In the event of anonymous complaints, the outcome of any investigation will be confidential, and Open Awards will not be able to provide any information on the outcome and what action we have taken. Therefore, it is always preferable for the complainant to reveal their identity and contact details to us, and if concerned about possible adverse consequences, request us not to divulge their identity.

Open Awards will protect confidentiality as far as reasonably possible, but cannot guarantee anonymity where disclosure is necessary to investigate fairly, protect an individual, comply with law or regulation, or enable a person or organisation complained about to respond. Personal information will be processed in accordance with applicable data-protection law and Open Awards' privacy information. Whistleblowing disclosures will be considered in accordance with the Public Interest Disclosure Act 1998 and related Open Awards procedures.

Further Avenues of Complaint

Where the complainant remains dissatisfied after receiving Open Awards' final outcome, the outcome letter will identify any available internal review or appeal route and, where applicable, how the matter may be referred to the relevant regulator.

A regulator will normally expect Open Awards' process to have been completed, although it may consider urgent or wider-public-interest matters earlier in accordance with its own procedure. Referral to a regulator does not normally provide a route to change an assessment result where the appropriate enquiries or appeals process has not been used.

Ofqual

Contact via the website <https://www.gov.uk/guidance/contact-ofqual> or 0300 303 3344

QAA

Access to HE enquiry form: <https://www.qaa.ac.uk/enquiry-forms/access-to-he>

Qualifications Wales

Contact via enquiries@qualificationswales.org or 01633 373222.

Internal Reviews following a Complaint being Upheld

Where a complaint identifies an actual or potential failure in Open Awards' processes, a breach of regulatory requirements, or an Adverse Effect or notifiable event, Open Awards will apply its incident, risk and regulatory-notification procedures and take all reasonable steps to:

- Identify other learners/ apprentices 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.
- Review whether the issue affects the validity, reliability or integrity of assessments, results or certificates, and whether any result or certificate correction, learner protection, provider action or regulatory notification is required.

Where the outcome of a complaint raises concerns over the validity of results at a provider, Open Awards will take action to protect the interests of other learners/ apprentices and the integrity of the award of qualifications and/ or units. This may include, for example:

- 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).

A representative of Open Awards Senior Management Team 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 notify the relevant regulator in accordance with the applicable notification condition, guidance and reporting timescale where the matter is, or is likely to become, a notifiable event or Adverse Effect. The decision, rationale, information supplied and any continuing updates will be recorded.

Exclusions from this Policy

Vexatious Correspondence or Behaviour

Open Awards staff will not engage with persistent/ repeated contact from complainants or abusive complainants. Where a complainant 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:

- A complainant being abusive or threatening, either during a telephone conversation, face to face meeting or in written correspondence.
- A complainant 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 knowingly false, malicious or personally abusive allegations, rather than raising relevant criticism or challenging a decision.

In such circumstances, the complainant will be referred to the Open Awards' Chief Executive Officer.

Zero Tolerance

Open Awards endeavours to provide a service which is prompt, courteous, clear and responsive to customer needs. In order to 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, stakeholders 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 reporting to relevant authorities.

Monitoring and Review

An annual report on all complaints, including complaints not upheld, will be made available to the Open Awards Board of Trustees. The report will include volumes, themes, timeliness, outcomes, equality or accessibility issues where lawfully available, corrective actions, repeat issues, provider related trends, regulatory notifications and evidence that actions have been completed.

Open Awards will review the policy biennially as part of its self-evaluation arrangements and revise it as and when necessary, in response to customer and stakeholder feedback, changes in its practices, advice from regulators or relevant 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 complaints remain effective.

Related Documents

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

- Provider Agreement
- Provider Handbooks
- Access to HE Provider Handbook
- Enquiries and Appeals Policy
- Maladministration and Malpractice Policy
- Reasonable Adjustments and Special Considerations Policy
- Recognition of Prior Learning Policy and Procedures
- Academic Misconduct Policy
- Sanctions Policy
- Safeguarding Policy
- Data Protection Policy

Regulatory Requirements

This document is designed to fulfil the requirements of our regulators. In particular:

Ofqual Principles

- Principle 1 An awarding organisation must act with honesty and integrity.
- Principle 2 An awarding organisation must treat Learners fairly by acting and taking decisions with due impartiality and based on appropriate evidence.
- Principle 3 An awarding organisation must ensure that each qualification that it makes available, or proposes to make available is, and continues to be, fit for the purposes for which it is intended.
- Principle 4 An awarding organisation must act in a way that maintains and, where possible, promotes public confidence in qualifications.
- Principle 5 An awarding organisation must act in an open, transparent and cooperative manner with Ofqual and, as appropriate, with Users of qualifications.
- Principle 6 An awarding organisation must conduct its activities with a proactive approach to compliance with its Conditions of Recognition.

Ofqual General Conditions of Recognition/ Qualifications Wales Standard Conditions of Recognition

- A4 Conflicts of interest
- A6 Identification and management of risks
- A7 Management of incidents
- A8 Malpractice and maladministration
- B3 Notification to [the regulator] of certain events
- C1 Arrangements with third parties
- C2 Arrangements with Centres
- D4 Responding to enquiries and complaints
- I2 Compliance with [the regulator]'s appeals and complaints process

QAA Access to HE Conditions

- A1 Governance arrangements
- A2 Accountability
- A4 Risk management and contingency arrangements
- B2 Notification of significant occurrences
- C1 Arrangements with providers
- E1 Protection of students
- E2 Corrective action
- E3 Identification of affected students

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 qualification-level or subject-level conditions impose additional or different requirements for a specific qualification type, Open Awards will apply the requirements for the relevant qualification.

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.

<i>Originator:</i>	<i>Director of Quality and Data</i>
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