

**Title of policy:**

Consolidated Appeals Procedure

**Policy statement (summary of main points):**

This document sets out the procedures for consideration of an appeal made by a higher education provider (henceforth 'provider') against a Quality Assurance Agency for Higher Education (QAA) review team's judgements.

**Strategic aim of the policy:**

To safeguard the robustness and fairness of QAA's review methods.

**Link to other policies/procedures and guidelines:**

- Higher Education Review (HER)
- Higher Education Review (Plus) (HER Plus)
- Higher Education Review (Alternative Providers) (HER AP)
- Higher Education Review (Embedded Colleges) (HER EC)
- Higher Education Review (Foreign Providers) (HER FP)
- Higher Education Review: Wales (HER Wales)
- Embedded College Review for Educational Oversight (ECREO)
- Recognition Scheme for Educational Oversight (RSEO)
- Review for Specific Course Designation (RSCD)
- Enhancement-led Institutional Review (ELIR, Scotland).

Owned by Head of Governance

**Date:** December 2013

Approved by QAA Board

**Date:** June 2015

Last reviewed/updated

**Date:** April 2015

Next review due

**Date:** April 2018

Location

Version 3

For further information contact

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 Governance Officer (Paralegal)

# Consolidated Appeals Procedure

Approved by the Board 10 June 2015

Effective from 1 August 2015

## Introduction

1 This document sets out the procedures for consideration of an appeal made by a higher education provider (henceforth 'provider') against a QAA review team's judgements following a review conducted under any of the following review methods:

- Higher Education Review (HER)
- Higher Education Review (Plus) (HER Plus)
- Higher Education Review (Alternative Providers) (HER AP)
- Higher Education Review (Embedded Colleges) (HER EC)
- Higher Education Review (Foreign Providers) (HER FP)
- Higher Education Review: Wales (HER Wales)
- Embedded College Review for Educational Oversight (ECREO)
- Recognition Scheme for Educational Oversight (RSEO)
- Review for Specific Course Designation (RSCD)
- Enhancement-led Institutional Review (ELIR, Scotland).

2 The procedure outlined in this document comes into effect for all reviews where judgements have been confirmed on or after **1 August 2015**.

## Making an appeal

3 QAA distinguishes between complaints and appeals. A complaint is an expression of dissatisfaction with services QAA provides or actions QAA has taken. QAA has a separate complaints procedure. Appeals are specific challenges to judgements reached further to a review under one of the QAA review methods listed above, and are handled through this procedure.

4 Where an appeal contains matters that properly fall within the complaints procedure, the Governance Team, the Independent Reviewer or the Appeal Panel may refer those matters to be considered under the complaints procedure.

5 Appeals must be submitted on the relevant QAA Appeal Submission Form (Annex 3) by the head of the provider concerned, and addressed to the Head of Governance, QAA, Southgate House, Southgate Street, Gloucester GL1 1UB. Oral appeals are not accepted. Electronic submission of Appeal Submission Forms can be arranged, but appellants must contact QAA in advance of submission to request the appropriate email contact. Appeals made in any format other than on the relevant QAA Appeal Submission Form are not acceptable and will be returned.

6 An appeal must be lodged within one month of receipt by the provider of the version of the review team's report specified in Annex 1. When the deadline for receipt of an appeal falls on a non-working day, it will be amended to the next working day. Amendments will also be made to take account of QAA closure dates. An appeal will normally be acknowledged within three working days of receipt.

7 A provider making an appeal must nominate a contact person for liaison with QAA. QAA will not discuss an appeal with any person other than the head of the provider or the

nominated contact person. The QAA contact person will normally be the Head of Governance,<sup>1</sup> who will keep the provider informed of progress. All contact with QAA further to the submission of an appeal must be made through the Governance Team.

8 Normally, the appeal procedure will be completed within three months of receipt of an appeal. In some circumstances it may be necessary to extend this period.

9 An appeal may be lodged if, and only if, the review team's judgements are any of those specified in Annex 2 ('the appealable judgements').

10 An appeal can be lodged on either or both of the following grounds.

**a Procedure**

That there was a procedural irregularity in the conduct of the review, such that the legitimacy of the decision or decisions reached is called into question. Examples include the review team: failing to carry out agreed procedures; reaching decisions that are disproportionate; failing to take account of relevant information or taking account of irrelevant information; or exceeding its powers.

**b New material**

There is material that was in existence at the time the review team made its decision, which, had it been made available before the review had been completed, would have influenced the judgement(s) of the team, and in relation to which there is a good reason for it not having been provided to the review team.

11 The provider should set out clearly and concisely in the relevant QAA Appeal Submission Form (Annex 3) the ways in which it considers the review to be flawed based on the grounds of appeal set out in paragraph 10 above. In so doing, the provider should explicitly identify the alleged deficiencies that led to the judgement. The provider may submit evidence to substantiate its claim, which should be clearly labelled and referenced. The completed QAA Appeal Submission Form and all associated evidence must be submitted by the appeal deadline. It is the provider's responsibility to ensure that the QAA Appeal Submission Form is completed in a clear and concise fashion and that all relevant evidence is supplied. QAA will process all appeals in the form that they are originally submitted and will not seek any clarification or amplification.

## Conflicts of interest

12 The Independent Reviewer, members of the Appeal Panel, and the Expert Adviser (paragraphs 16, 20 and 22 below) are experienced reviewers or review managers who have had no prior involvement in the review under appeal, and are drawn from a list of reviewers and review managers maintained for this purpose.

13 The provider will be given the opportunity to review the list and raise objections to any individual reviewer or review manager, on the grounds that their involvement in the appeal would give rise to an actual or perceived conflict of interest. Any such objections should be communicated to QAA's Head of Governance within five working days of the list being sent to the provider.

14 QAA's Head of Governance may either accept the objections and allocate a different reviewer from the list or refer the objections to the Chair of the QAA Board.

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<sup>1</sup> All references to the Head of Governance in this procedure may include any person nominated to act on their behalf.

15 The Chair<sup>2</sup> will consider any objections raised by the provider, and referred to them by the Head of Governance, and decide whether these are to be taken into account when selecting an Independent Reviewer, Expert Adviser or the members of the Appeal Panel. The Chair's decision shall be final, and there is no appeal from, or review of, the Chair's decision.

## Initial consideration of an appeal

16 Upon receipt of an appeal, QAA will refer it for preliminary consideration by an Independent Reviewer.

17 The Independent Reviewer will consider the review team's final report, the QAA Appeal Submission Form lodged by the provider, and any submission made to the review team by the provider after the draft report. The Independent Reviewer may seek advice on the operation of this procedure from QAA's Governance Team.

18 The Independent Reviewer may reject an appeal, or any part(s) of an appeal, only where they decide there is no realistic prospect of the appeal, or any part(s) of the appeal, being upheld. The Independent Reviewer will outline their reasons for rejecting the appeal or part(s) of the appeal. In all other cases, the Independent Reviewer will refer the appeal or remaining parts of the appeal to the Appeal Panel.

19 Where the Independent Reviewer rejects an appeal, or part(s) of an appeal, the provider will be notified in writing of this decision and the reasons for the appeal or the relevant part(s) thereof being rejected. There is no appeal from, or review of, the Independent Reviewer's decision.

## The Appeal Panel

20 Where the Independent Reviewer has referred an appeal to the Appeal Panel, the Governance Team will convene an Appeal Panel to consider the appeal. The Appeal Panel will consist of three experienced reviewers, one of whom will act as Chair.

21 Administrative and procedural support to the Appeal Panel is provided by QAA Governance Officers, who have no operational involvement in the review programme or any prior involvement in the review under appeal.

22 An Expert Adviser will be available to the Appeal Panel to provide guidance on the application of the relevant QAA review method. The Expert Adviser will be an experienced QAA Review Manager who has no prior involvement in the particular review under appeal. The Expert Adviser will not receive or consider the documentation constituting the appeal at any stage and will advise only on matters of procedure when requested by the Appeal Panel.

23 The Appeal Panel may, at any stage of the process, seek advice on the operation of this procedure from the Governance Team, who may, if they consider it necessary, seek external legal advice.

## Response to the appeal

24 In order to assist an Appeal Panel in its consideration, the Governance Team, acting on the Appeal Panel's behalf, will ask the Coordinator or QAA Review Manager with responsibility for the review to respond to the appeal. The QAA Review Manager will coordinate a response on behalf of the review team, including comments on any suggestion

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<sup>2</sup> All references to the Chair of the QAA Board in this procedure may include any member of the QAA Board nominated to act on their behalf.

of procedural deficiency in the conduct of the review and on any other matters raised in the appeal.

25 QAA will make available to the provider the response received in accordance with paragraph 24 at least 10 working days before the date fixed for the Appeal Panel. The provider may comment in writing on that response, and those written comments will also be considered by the Appeal Panel. The provider's response should be received by the Governance Team at least five working days before the date fixed for the Appeal Panel.

26 The Appeal Panel may, at any stage of the process, request that the Governance Team obtain further information or clarification from the provider and/or the QAA Review Manager. A copy of any such information or clarification shall be provided to the other party, who will have the right to comment on it.

## Documents for the Appeal Panel

27 The documents considered by the Appeal Panel will include:

- the review team's report
- the QAA Appeal Submission Form completed by the provider
- the review team's response, as described in paragraph 24
- any comments received from the provider on the review team's comments, as provided for in paragraph 25.

28 The Appeal Panel will not consider any document that has not been identified to and provided to the provider in advance of the Appeal Panel meeting to consider the documents.

29 The Appeal Panel will normally reach a decision on an appeal at the Panel, without the need for any additional representation. The Appeal Panel may, however, at its absolute discretion, instruct the Governance Team to invite senior representatives of the provider and/or QAA to a meeting in exceptional circumstances where the Appeal Panel considers that there are issues that require further clarification. The procedure at the meeting will be entirely at the Appeal Panel's discretion. There will be no right to legal representation at such a meeting. Under no other circumstances will the Appeal Panel receive oral representations.

## Decisions of the Appeal Panel

30 The Appeal Panel will focus on the process and conclusions that led to the appealable judgements.

31 The Appeal Panel shall uphold the appeal if it concludes, on the balance of probabilities, that:

- there was a procedural irregularity in the conduct of the review, such that the legitimacy of the decisions reached is called into question
- and/or there is material that was in existence at the time the review team made its decision which, had it been made available before the review had been completed, would have influenced the judgements of the team, and in relation to which there is a good reason for it not having been provided to the review team.

32 Otherwise, the Appeal Panel shall reject the appeal and shall determine that the judgements of the review team shall be confirmed.

- 33 Where the Appeal Panel upholds the appeal, it may do either of the following:
- set aside the affected review (this option will be exercised only where the Appeal Panel decides that the reason for upholding the appeal is so systemic and serious as to call the validity of the entire review into question)
  - set aside any or all affected judgements.

34 In the event that the Appeal Panel sets aside the affected review, a new review will be carried out by a new review team, based on a new submission of evidence by the provider.

35 In the event that the Appeal Panel sets aside one or more affected judgements, the scope of any consequent re-review will be determined by the Director of Quality Assurance<sup>3</sup>, who will be guided by the following principles.

- Judgements successfully appealed on procedural grounds will normally result in a new team reviewing existing evidence relating to that judgement.
- Judgements successfully appealed on the ground of new material will normally result in the existing review team reconsidering the set aside judgement, to take into account the new material presented at appeal.
- Should a judgement be successfully appealed on the grounds of both procedure and new material, the remedy for successful procedural appeals detailed above will prevail, save that the new team will also take into account the new material presented.

36 The Director of Quality Assurance will take into consideration any comments made by the Appeal Panel, but will define the precise extent and scope of the re-review of one or more judgements, in order to ensure that it is necessary and proportionate. The Director of Quality Assurance will be guided by the list of options above but retains the right, if they consider in their opinion that it would be fairer for the provider, to direct that an entirely new review be carried out by a new review team. The Director of Quality Assurance's decision is final.

37 The Appeal Panel will give reasons for its decision.

38 The decision of the Appeal Panel is final. There is no appeal from, or review of, the Appeal Panel's decision.

39 The Governance Team will communicate the outcome of the Appeal Panel's consideration of an appeal to the head of the provider or nominated contact person, normally within seven working days of the date of the Appeal Panel.

40 Once the provider has been advised of the Appeal Panel's decision, the appeal procedure is completed.

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<sup>3</sup> References to the Director of Quality Assurance in this procedure may include any person nominated to act on their behalf.

## Annex 1 - The version of the report upon which an appeal can be based

Review method	Version of report
<ul style="list-style-type: none"> <li>Higher Education Review (HER)</li> </ul>	<p>The second draft report, received following consideration of the provider's comments on the first draft report</p>
<ul style="list-style-type: none"> <li>Higher Education Review (Plus) (HER Plus)</li> <li>Higher Education Review (Alternative Providers) (HER AP)</li> <li>Higher Education Review (Embedded Colleges) (HER EC)</li> <li>Higher Education Review (Foreign Providers) (HER FP)</li> </ul>	<p>The second draft report, received following consideration of the provider's comments on the first draft report, <u>or</u></p> <p>The final report resulting from any re-review</p>
<ul style="list-style-type: none"> <li>Higher Education Review: Wales (HER Wales)</li> </ul>	<p>The second draft report and evidence base, received following consideration of the provider's comments on the first draft report and evidence base</p>
<ul style="list-style-type: none"> <li>Embedded College Review for Educational Oversight (ECREO)</li> <li>Recognition Scheme for Educational Oversight (RSEO)</li> <li>Review for Specific Course Designation (RSCD)</li> </ul>	<p>The finalised report, received following consideration of the provider's comments on the draft (draft 4), or where a second visit is agreed, the report received following the second visit</p>
<ul style="list-style-type: none"> <li>Enhancement-led Institutional Review (ELIR, Scotland)</li> </ul>	<p>The final text versions of the Outcome Report and Technical Report, received following consideration of the provider's comments on the first draft reports.</p>

## Annex 2 - Judgements that can be appealed

Review method	Appealable judgements
<ul style="list-style-type: none"> <li>• Higher Education Review (HER)</li> <li>• Higher Education Review (Plus) (HER Plus)</li> <li>• Higher Education Review (Alternative Providers) (HER AP)*</li> <li>• Higher Education Review (Embedded Colleges) (HER EC)</li> <li>• Higher Education Review (Foreign Providers) (HER FP)</li> <li>• Higher Education Review: Wales (HER Wales)</li> </ul> <p>* a negative judgement, as listed in the column 'appealable judgements', resulting from a HER AP re-review for the purposes of Specific Course Designation only is appealable</p>	<p>The setting and maintenance of the academic standards of awards 'requires improvement to meet UK expectations'</p> <p>The setting and maintenance of the academic standards of awards 'does not meet UK expectations'</p> <p>The maintenance of the academic standards of awards offered on behalf of degree-awarding bodies and/or other awarding organisations 'requires improvement to meet UK expectations'</p> <p>The maintenance of the academic standards of awards offered on behalf of degree-awarding bodies and/or other awarding organisations 'does not meet UK expectations'</p> <p>The quality of student learning opportunities 'requires improvement to meet UK expectations'</p> <p>The quality of student learning opportunities 'does not meet UK expectations'</p> <p>The quality of the information about learning opportunities 'requires improvement to meet UK expectations'</p> <p>The quality of the information about learning opportunities 'does not meet UK expectations'</p> <p>The enhancement of student learning opportunities 'requires improvement to meet UK expectations'</p> <p>The enhancement of student learning opportunities 'does not meet UK expectations'</p>



Review method	Appealable judgements
<ul style="list-style-type: none"> <li>• Embedded College Review for Educational Oversight (ECREO)</li> <li>• Recognition Scheme for Educational Oversight (RSEO)</li> <li>• Review for Specific Course Designation (RSCD)</li> </ul>	<p>Limited confidence in academic standards</p> <p>No confidence in academic standards</p> <p>Limited confidence in the quality of learning opportunities</p> <p>No confidence in the quality of learning opportunities</p> <p>Reliance cannot be placed on the accuracy and/or completeness of information published by the provider about itself (excluding RSEO)</p>
<ul style="list-style-type: none"> <li>• Enhancement-led Institutional Review (ELIR, Scotland)</li> </ul>	<p>Overarching judgements:</p> <p>The institution's arrangements for managing academic standards and enhancing the quality of the student learning experience are 'not effective'</p> <p>The institution's arrangements for managing academic standards and enhancing the quality of the student learning experience have 'limited effectiveness'</p>

## Annex 3 - QAA Appeal Submission Form

<b>Name of organisation submitting appeal</b>	
<b>Address of organisation submitting appeal</b>	

Judgement(s) being appealed (see note (i) below)	Tick if appealing on grounds of 'Procedure' (see note (ii) below)	Tick if appealing on grounds of 'New Material' (see note (iii) below)

**Note (i)** Only negative judgements can be appealed, individual expectations that make up a judgement are not appealable, only the overall judgement, and one or two grounds in support of the appeal must be indicated (see notes (ii) and (iii) below)

**Note (ii)** 'Procedure' refers to an irregularity in the conduct of the review such that the legitimacy of the decision(s) reached is/are called into question.

**Note (iii)** 'New Material' refers to material that was in existence at the time the review team made its decision which, had it been made available before the review had been completed, would have influenced the judgements of the team, and in relation to which you must provide a good reason for it not having been provided to the review team.

Please detail below (or on a separate sheet) the way in which you consider the review to be flawed, based on the grounds of appeal you have selected on the previous page, making sure to explicitly identify the alleged deficiencies that led to each of the appealed judgements (please number your submission accordingly).

**Appeal explanation**

**Reference  
number of  
supporting  
document**

Appealing organisation's nominated contact person	
<b>Name</b>	
<b>Title</b>	
<b>Contact number</b>	
<b>Email address</b>	

On behalf of the organisation named on page 1 of this form, I confirm that this submission constitutes the entirety of the appeal, and that the information contained herein is accurate and complete.

Appealing organisation's authorised signatory	
<b>Signature</b>	
<b>Name</b>	
<b>Title</b>	
<b>Date</b>	

This form, duly completed, any supporting documentation and all subsequent correspondence relating to the appeal should be sent directly to the following address:

Head of Governance  
The Quality Assurance Agency for Higher Education  
Southgate House  
Southgate Street  
Gloucester  
GL1 1UB

**Note: Please do not send appeal correspondence to any member of your QAA review team.**

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Registered charity numbers 1062746 and SC037786