

Appeals Procedure for Trailblazers

Introduction

1. This document sets out how a Trailblazer can appeal against a decision made by the Institute. The Institute aims to work collaboratively with employers and we hope that working in this way will resolve most problems without employers needing to use the formal appeals process.
2. In carrying out its work to uphold the quality of apprenticeships the Institute will have to operate a number of different processes;
 - I. Process to approve or reject a proposal from a group of persons to develop an apprenticeship standard
 - II. Process to approve or reject an apprenticeship standard
 - III. Process to approve or reject an assessment plan
 - IV. Process to recommend to the Department for Education a final funding band allocation for an apprenticeship standard
 - V. Process to withdraw or amend an approved standard or assessment plan.
3. The procedure outlined in this document comes into effect for all processes in the list above where the Institute has made a decision on or after 1 April 2017. The Institute will keep its appeals procedure under review for six months from this date.

Making an appeal

4. The Institute distinguishes between complaints and appeals. You can make a complaint if you are unhappy with services the Institute provides or actions the Institute has taken. The Institute has a separate complaints procedure. You can find out more about this [here](#).

5. You can make an appeal when you want to challenge a decision the Institute has made as part of one of the Institute processes listed above. These are handled through this procedure.
6. If you make an appeal that also includes a complaint the Institute may decide to consider the parts that constitute a complaint through its complaints procedure. If we decide to do this, we will let you know and explain the reasons why.
7. We will only consider appeals brought by Trailblazers. We will not consider appeals brought by other people such as training providers or awarding organisations. If you would like to make an appeal this should be made by the Chair of your Trailblazer and sent to the Institute's enquiries e-mail address (enquiries.ifa@education.gov.uk). We can only accept an appeal from you if you send it to us on our appeals form. You can find the forms and details on where to send them at the end of the document. We will not accept appeals initiated in other ways, including face-to-face or by phone with members of Institute staff.
8. If you want to make an appeal you need to send it to us within 10 working days of us notifying you of our recommendation to government of a final funding band allocation and one month of us telling you our original decision for all other appealable decisions. Where the final date for sending us an appeal falls on a weekend or other non-working day, we will move the deadline to the next working day. We will normally tell you we have received your appeal within three working days of you lodging it with us. Normally, the appeal procedure will be completed within eight weeks of receipt of an appeal application. In some circumstances it may be necessary to extend this period.
9. In dealing with your appeal we will stay in touch with the Chair of the Trailblazer throughout the process. The Chair of the Trailblazer can give us the name of a second contact person who we can contact in their absence. We will not discuss an appeal with anyone other than the Chair of the Trailblazer or the person they provide as a second contact.

10. The Institute contact person will normally be the Deputy Director – Corporate Effectiveness¹ who will keep the Chair to the Trailblazer informed of progress. All contact with the Institute about your appeal must be made through the Deputy Director – Corporate Effectiveness.

11. You can only make an appeal if the Institute’s decisions are any of those specified in paragraph 2 ('the appealable decisions'). An appeal can be lodged on either or both of the following grounds:

- Procedure. That there was a procedural irregularity in the conduct of the process, such that the legitimacy of the decision or decisions reached is called into question. Examples include the relevant Institute 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; exceeding its powers.
- Existing material. That there is material that was in existence at the time the Institute made its decision which, had it been made available before the decision had been taken, would have influenced the judgement(s) of the Institute, and there is a good reason for it not having been provided to the Institute at the point of original submission.

12. You should set out clearly and concisely in the Institute Appeal Submission Form the ways in which you consider the decision to be wrong based on the grounds of appeal set out in paragraph 11 above. In so doing, you should identify the alleged deficiencies that led to the decision.

13. You may submit evidence to support your claim, which should be clearly labelled and referenced. You must submit the completed Institute Appeal Submission Form and all related evidence by the appeal deadline. You are responsible for ensuring that the Institute Appeal Submission Form is

¹ References to the Deputy Director – Corporate Effectiveness include such persons from the Institute Corporate Effectiveness team delegated by the Deputy Director – Corporate Effectiveness

completed in a clear and concise fashion and that all relevant evidence is supplied.

People involved in handling your appeal.

14. The following people within the Institute will be involved in handling your appeal:

- The Deputy Director – Corporate Effectiveness. The Deputy Director – Corporate Effectiveness will manage the appeals process and keep you informed of progress.
- The Independent Reviewer. The Independent Reviewer is an Institute official who was not involved in the original decision you want to appeal. They will review your appeal on behalf of the Appeal Panel to confirm the grounds of appeal have been met.
- The senior investigating official. This will be a senior official from the Institute who has not been involved in the original decision being appealed. They will investigate the appeal on behalf of the Appeal Panel.
- The Appeal Panel. The Appeal Panel is the Institute Board (sitting without any Board members who were involved in the decision being appealed).

Conflicts of interest

15. The Institute officials acting as Independent Reviewer and senior investigating official for your appeal will have had no prior involvement in the decision under appeal. The Institute Board sitting as the Appeal Panel will hear your appeal. Any Board members involved in the original decision will not sit a part of the Appeal Panel.

16. You will be given the opportunity to review the officials handling your appeal and raise objections to any individual official or Appeal Panel member, 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

the Deputy Director – Corporate Effectiveness within five working days of the names of officials handling your appeal being sent to you.

17. The Institute's Deputy Director – Corporate Effectiveness may either accept your objections and allocate different officials or refer the objections to the Chair of the Institute Board.
18. The Institute's Chair will consider any objections you have raised, and which have been referred to them by the Deputy Director – Corporate Effectiveness and decide whether these are to be taken into account when selecting an Independent Reviewer or senior investigating official. The Chair's decision shall be final, and there is to be no appeal from, or review of, the Chair's decision.

Initial consideration of an appeal

19. On receiving your appeal, it will be considered by an Independent Reviewer. The Independent Reviewer will consider our original decision and your completed Appeal Submission Form. The Independent Reviewer may seek advice on the operation of this procedure from the Deputy Director – Corporate Effectiveness.
20. 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.
21. Where the Independent Reviewer rejects an appeal, or part(s) of an appeal, we will refer this to the Institute Board, sitting as the Appeal Panel, for confirmation. We will notify you in writing of this decision and the reasons the appeal or parts of the appeal are being rejected. There is no appeal from, or review of, the Appeal Panel's decision.

The Appeal Panel

22. Where the Independent Reviewer has referred an appeal to the Appeal Panel, the Deputy Director – Corporate Effectiveness will convene an Appeal Panel to consider the appeal and appoint a senior investigating official to investigate the appeal on behalf of the Appeal Panel. The Appeal Panel will consist of the Board of the Institute, but will not include any Board members who were involved in the original decision.
23. Administrative and procedural support to the Appeal Panel is provided by the Deputy Director – Corporate Effectiveness who has no involvement in the operation of the appealable processes set out in paragraph 2 or any prior involvement in the decision under appeal.
24. The Board may, at any stage of the process, seek advice on the operation of this procedure from the Deputy Director – Corporate Effectiveness who may, if they consider it necessary, seek external legal advice.

Response to the appeal

25. In order to assist an Appeal Panel in its consideration, the senior investigating official, on the Appeal Panel's behalf, will ask the process owner with responsibility for the decision being appealed to respond to the appeal, including for comments on any suggestion of procedural deficiency in the conduct of the process and on any other matters raised in the appeal.
26. We will make the response received available to you at least 10 working days before the date fixed for the Appeal Panel's consideration of your appeal. You may comment in writing on that response, and those written comments will also be considered by the Appeal Panel. Your response should be received by the Deputy Director – Corporate Effectiveness at least five working days before the date fixed for the Appeal Panel to convene to consider the appeal.
27. The Appeal Panel may, at any stage of the process, request that the Deputy Director – Corporate Effectiveness obtain further information or clarification

from you or the process owner. If we seek further information from you or from the process owner we will share this with both you and the process owner.

Documents for the Appeal Panel

28. The documents considered by the Appeal Panel will include:

- the original decision
- Your completed Institute Appeal Submission Form
- the process owner's response, as described in paragraph 25
- any comments received from you on the process owner's comments, as provided for in paragraph 26

29. The Appeal Panel will normally reach a decision on an appeal when the Panel convenes, without the need for any additional representation. The Appeal Panel may, however, at its absolute discretion, instruct the Deputy Director – Corporate Effectiveness to invite the Chair of the Trailblazer or the process owner 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 decisions being appealed.

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

- there was a procedural irregularity in the making of the decision that was material to the decision reached; or
- there is material that was in existence at the time the decision was made which, had it been made available before the decision was taken, would have influenced the decision, and there is a good reason for it not having been provided prior to the decision being taken.

32. Where the Appeal Panel upholds the appeal it will set aside the decision under appeal.

The Appeal Panel will give reasons for its decision.

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

34. The Deputy Director – Corporate Effectiveness will communicate the outcome of the Appeal Panel's consideration of an appeal to the Chair of the Trailblazer or nominated contact person, normally within seven working days of the date of the Appeal Panel's consideration of the appeal.

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

36. In the event that the Appeal Panel sets aside the decision under appeal, decisions successfully appealed on procedural grounds will normally result in a new process owner reviewing existing evidence relating to that decision. Decisions successfully appealed on the ground of new material will also normally result in a new process owner reconsidering the set aside decision, to take into account the new material presented at appeal.

37. The Deputy Director – Corporate Effectiveness 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 decisions, in order to ensure that it is necessary and proportionate.

Appeal Submission Form for Trailblazers

Name of Trailblazer submitting appeal	
Decision being appealed(see note (i) below)	<i>Please name the decision being appealed quoting any Institute correspondence reference numbers</i>
Tick if appealing on grounds of 'Procedure' (see note (ii) below)	
Tick if appealing on grounds of 'Existing Material' (see note (iii) below)	

Note (i) Only in scope decisions can be appealed and one or two grounds in support of the appeal must be indicated (see notes (ii) and (iii) below)

Note (ii) 'Procedure' refers to a procedural irregularity in the conduct of the process, such that the legitimacy of the decision or decisions reached is called into question.

Note (iii) 'Existing Material' refers to material that was in existence at the time the Institute made its decision which, had it been made available before the review had been completed, would have influenced the decision of the Institute, 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 decision to be flawed, based on the grounds of appeal you have selected in the table above, making sure to explicitly identify the alleged deficiencies that led to each of the appealed decision (please number your submission accordingly).

Appealing Trailblazers nominated contact person	
Name	
Title	
Contact Number	
Email address	
On behalf of the Trailblazer 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.	
Signature	
Name	
Title	

Appeal explanation	Reference number of supporting document

Date

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

Enquiries.IFA@education.gov.uk

Note: Please do not send appeal correspondence to any member of your Institute Relationship Manager or Approvals Manager