

## **Initial Teacher Education – Appeal against an Assessment or Examination Board decision**

### **Definition of an appeal**

1.1 An appeal is a request from a trainee that a decision of the assessor or Examination Board should be reviewed because it is believed that an injustice has occurred.

A successful appeal results in the assessor or Examination Board reviewing its decision in the light of the new information initially provided by the trainee, although it does not necessarily mean that the original decision of the assessor or Examination Board is changed.

1.2 An appeal may only be made against a published assessment result which has been confirmed by an assessor or Examination Board.

1.3 Trainees wishing to query a grade which has not yet been approved by an assessor or Examination Board may do so informally through their Professional Development Tutor or NELTA Director/Principal.

1.4 Trainees who have a complaint or grievance concerning the provision of a programme of study or academic service which they believe has affected the quality of their academic performance, should, before submitting an appeal, follow the grievance procedure.

### **Reasons for making an appeal**

2.1 Appeals against an assessment or Examination Board decision may be made on any of the following grounds:

(a) That a trainee's performance in an assessment suffered through illness or other factors which the trainee was unable or for valid reasons unwilling to inform the assessor or Examination Board through the extenuating circumstances procedures before it reached its decision.

(b) That there has been an administrative error in the management of the assessment.

(c) That the assessment was not run in accordance with the programme of study description.

(d) That the assessor or Examination Board has failed to consider material circumstances, relating to the delivery of a teacher training programme, which have adversely affected a trainee's performance in assessment. This ground will only be deemed acceptable if:

i the circumstances have been the subject of a Trainee Complaints and Grievance procedure, and

ii the case of the complaint has been upheld, and

iii steps have not been taken to mitigate the effects of the circumstances.

(e) That some other irregularity has occurred.

### **Reasons why an appeal will normally be rejected**

3.1 An appeal may be rejected by the NELTA Principal for any of the following reasons, or if it is judged to be vexatious or frivolous, without further recourse to the appeals procedures.

(a) The appeal is a disagreement with the academic judgement of an assessor or Examination Board in assessing the merits of academic work, or in reaching a decision on progression, or on the final classification of a qualification, which has been reached in accordance with the regulations.

(b) The trainee did not understand or was not aware of the published assessment regulations and procedures for a module, subject or programme.

(c) The appeal is on grounds that poor teaching, supervision or guidance affected academic performance. In such circumstances a trainee should submit a complaint in accordance with the Trainee Complaints and Grievance Procedure.

(d) That no contemporaneous, independent, medical or other evidence has been submitted to support an application that academic performance was adversely affected by factors such as ill health.

(e) The trainee was not aware of the procedures for presenting extenuating circumstances to the assessor or Examination Board. These extenuating circumstances include health or other problems, or difficulties with the running of the programme or way in which the assessment was conducted.

(f) No valid reason, i.e., circumstances beyond a trainee's control, has been submitted as explanation for not submitting extenuating circumstances to the attention of the assessor or Examination Board before it met.

(g) The appeal concerns a long-standing health problem, which the trainee was aware of at enrolment.

(h) The trainee had changed address/email address without informing the School Direct administrator, resulting in assessment information being sent to an out-of-date address

(i) The NELTA Principal receives the appeal beyond the time limit specified in 4.1 without good cause. It is the trainee's responsibility to ensure that the appeal is submitted to the NELTA Principal on time.

### **Before making a formal appeal**

4.1 Except where (a) or (b) applies, there is a time limit of 5 working days from the date of the assessment or Examination Board results being published for submission of a formal appeal to the NELTA Principal.

Except where (a) or (b) applies, during this time the trainee must make every effort to discuss the problem with the assessor, Principal and any other appropriate member of the academic staff. This may result in the matter being resolved informally and quickly.

(a) If an appeal arises following due process of the Trainee Complaints and Grievance Procedure, the time limit is 5 working days from the date the trainee receives the written result of this procedure. Regulations 4.2 and 4.3 shall not apply.

4.2 The NELTA Principal will consider the case and may advise the trainee:

- (a) That the assessor or Examination Board will reconsider its decision taking account of this new information;
- (b) That the assessor or Examination Board's decision was based on a fair evaluation of the trainee's assessment performance and will not be reconsidered;
- (c) In any other way deemed appropriate, including that the trainee should make a formal appeal.

4.3 Trainees should only make a formal appeal if:

- (a) They have been unable to contact the assessor, NELTA Principal and other relevant members of staff;
- (b) They are dissatisfied with the outcome of these informal discussions.
- (c) They have been advised to do so by the NELTA Principal.

## **5 - How to make a formal appeal**

5.1 Obtain an appeal form from the NELTA administrator or NELTA website.

5.2 Complete the form clearly, and include a statement of the reasons for making the appeal.

5.3 Collect corroborative evidence (for example, a medical certificate, statements from other trainees).

5.4 Send the form, the statement and evidence to the address on the form within the time limit specified in 4.1. If it is received later than this, it is likely to be rejected unless a statement is attached of the circumstances which prevented the deadline from being met, and this is accepted as valid by the NELTA Principal.

5.5 In exceptional circumstances, if the trainee is unable because of severe illness or other valid reason to submit the appeal, another person may complete and submit the appeal on the trainee's behalf, normally with the trainee's written consent.

5.6 The appeal, once submitted, is considered as the definitive statement of the appellant's case and may not be added to unless the NELTA Principal seeks clarification from the appellant.

5.7 The NELTA Principal will send an acknowledgement of receipt to the appellant within seven days. If this is not received, the appellant should contact the NELTA administrator without delay.

### **Progression of an appellant while an appeal is being considered**

6.1 The decision of the assessor or Examination Board remains in force until it is formally notified by the NELTA Principal to have been rescinded. Therefore the trainee remains responsible for:

- (a) Conforming to the requirements for a referral, resubmission of work to be assessed or re-sitting an examination pending the outcome of the appeal;
- (b) The consequence of not complying with these requirements should the subsequent decision of the appeal process not be in the trainee's favour.

6.2 While the appeal is being processed, the appellant:

- (a) Shall normally be permitted to continue to the next stage of their studies, unless there are circumstances preventing it other than the decision in question of the assessment board. This will not prejudice the outcome of the appeal.

If the appeal concerns expulsion following an investigation into professional misconduct, the appellant is suspended and written permission is required from the NELTA Principal or nominee for the appellant to continue to the next stage of their studies. The NELTA Principal or nominee has discretion not to permit the appellant to continue pending the outcome of the appeal.

If the appeal concerns a decision to fail a trainee as a result of the Cause for Concern Procedure the appellant is suspended and written permission is required from the NELTA Principal or nominee for the appellant to continue to the next stage of their studies. The NELTA Principal or nominee has discretion not to permit the appellant to continue pending the outcome of the appeal.

If the appeal concerns a failed prerequisite for placement, or the placement itself, written permission to attend a placement is required from the NELTA Principal. The NELTA Principal, in exceptional circumstances, has discretion not to permit the appellant to enter, or to continue on placement pending the outcome of the appeal. This discretion may be exercised only where the NELTA Principal judges that it would be against the interests of other people affected by the placement.

This right is designed solely to ensure that a trainee whose appeal is upheld is not academically disadvantaged and it shall not be interpreted as acceptance of a failed trainee whose appeal is subsequently dismissed on a later stage of the programme, nor shall satisfactory progress during such attendance be admissible as evidence at any stage in the appeal procedure.

During any such interim period of attendance, no fees would be demanded. In the event of the appeal ultimately being resolved in the trainee's favour and the trainee being formally reinstated onto the programme, the appropriate fee would be payable.

- (b) If a final qualification has been made, may inform prospective employers of the qualification but that the decision may be reviewed following the appeal.

6.3 The entitlement of the appellant to proceed on the programme of study will continue until the date of the letter formally notifying the appellant of the final outcome of their appeal (i.e., dismissal of the appeal, assessor or Examination Board's reviewed decision). This letter will inform the appellant whether they are entitled to continue on the programme.

### **Confidentiality**

7.1 The appeal is kept as confidential as possible and within NELTA/Beal High School Appellants who notify the NELTA Principal that information has been included of a highly confidential and personal nature will, if requested, be informed in advance of the names of persons to whom the information will be disclosed.

7.2 Papers will be kept on confidential file for up to two years. After that, apart from a copy of the notification to a trainee of the final decision, they may be destroyed.

### **Procedure for considering an appeal**

8.1 If the NELTA Principal considers that there may be grounds for appeal, the assessor, members of the Examination Board or any other appropriate person will be requested to submit a written statement to the NELTA Principal providing the required information. These written statements should be in a form suitable for use as evidence at an Appeal Panel.

8.2 The NELTA Principal decides whether, at first sight, there are grounds for the appeal to proceed by considering the following documents, where appropriate:

- (a) The appeal submitted by the appellant;
- (b) The relevant record of the assessor or Examination Board including the appellant's detailed confirmed assessment grades;
- (c) Provisional assessment grades where relevant;
- (d) Written statements made to the NELTA Principal concerning the case;

### **The grounds for appeal are not established**

9.1 In every case where the NELTA Principal considers that there is no ground for appeal on the evidence available they shall consult an internal moderator neutral to the appellant. The internal moderator will be a PCM (senior leader) from a partner school.

9.2 They may dismiss the appeal provided that the internal moderator agrees.

9.3 An appeal submitted under 2.1 (a), extenuating circumstances, may be dismissed where the trainee's assessment performance was not one under which discretion may be exercised unless the circumstances are such as to merit the possibility of a severe injustice being done.

An appeal submitted under 2.1 (b), (c), (d) or (e) may not be dismissed for this reason.

9.4 A decision on an appeal by the NELTA Principal, with the agreement of the internal moderator, is final and no further appeal is possible against it.

9.5 The academic appeal procedures are now complete. Should the appellant wish to take the matter further, they must follow the guidance in 16.

### **The grounds for appeal are established**

10.1 Where the NELTA Principal or the neutral internal moderator considers that there may be ground for appeal:

(a) If appropriate they may offer the appellant an informal settlement of their appeal.

i An informal settlement means that the assessor or Examination Board has agreed, on the recommendation of the NELTA Principal, that the assessor or Examination Board will review its decision but will not necessarily alter it.

ii Where appropriate, the assessor or any member of the Examination Board may take Chair's Action in the Trainee's favour provided that they obtain in due course the agreement of the Board to confirm the decision.

iii The assessor or Examination Board review shall involve full consideration of the appellant's case.

iv The assessor or Examination Board shall send a full written report of its consideration to the NELTA Principal.

v If the NELTA Principal considers that the assessor reconvened Examination Board has not taken due and proper account of the appellant's case they shall prepare a brief account of the circumstances for report to the NELTA Strategic Board.

vi The appellant may choose not to accept an informal settlement, but should note that an Appeal Panel may also only request an assessor or Examination Board to review its decision. A letter from the appellant stating the decision not to accept this offer must be received by the NELTA Principal within 10 working days of the date on the letter offering the informal settlement.

vii An appellant's failure to reply in writing within 10 working days of the date on the letter offering an informal settlement shall be taken as acceptance of the offer.

viii A decision on an appeal by an assessor or Examination Board is final and no further appeal is possible against it.

ix The academic appeal procedures are now complete. Should the appellant wish to take the matter further, they must follow the guidance in 16.

(b) They may convene a meeting of an Appeal Panel. The appellant should note that an Appeal Panel shall not necessarily require an assessor or Examination Board to review its decision.

## **Preparation for the Appeal Panel**

### 11.1 - Constitution

An Appeal Panel will normally consist of the following:

A member of the NELTA leadership group who has not been involved in assessment of the trainee  
A Strategic Board member from a partner school (PCM or other member of SLT)  
A BMAT Principal (not including the NELTA Principal)

(b) The Chair of the Appeal Panel will be the Strategic Board member

(c) No member of staff who has been involved in assessing or teaching the appellant is eligible.

(d) The NELTA administrator or member of BMAT HR, who is not a member of the Appeal Panel, shall be the Secretary and shall attend the meeting.

### **Notification to appellant**

The NELT administrator shall arrange with all those involved in the hearing a suitable date and shall give the appellant in writing:

(a) At least 5 working days' notice, wherever possible, of the date, time and place of the hearing, and the names of expected Appeal Panel members;

(b) A requirement that the appellant acknowledges receipt of the notification of the Appeal Panel meeting;

(c) A statement that the appellant is entitled to be accompanied by a companion (work colleague, professional representative or fellow trainee) at the hearing and to call witnesses. (The companion should not also be a witness);

(d) A warning that any information given to them whether or not in writing, is strictly confidential, and must not be disclosed to others unless they are directly assisting the appellant in preparing for the hearing, nor discussed in any way with any member of the Appeal Panel;

(e) A statement that the appellant may object to the appointment of any member of the Appeal Panel and to the date but that any change to the arrangements is solely at the discretion of the Chair of the panel;

(f) A warning that if the appellant fails to attend the Appeal Panel meeting, the Panel will normally proceed in their absence.

### **Breach of confidentiality**

(a) The publication of appeal papers by the appellant in any form may result in the appeal being ruled closed by the NELTA Principal.

(b) Such a breach of confidentiality will be the subject of a preliminary issue of the Appeal Panel who will have the power to dismiss the appeal if such a breach is substantiated.

(c) An appellant who has published appeal papers in the course of a previous appeal and who submits a new appeal against a later assessment or Examination Board decision shall not receive papers until a maximum of one hour before any hearing that may be called. This shall be under supervision and the appellant shall be required to hand papers in immediately after the hearing.

### **Witnesses**

Witnesses may be called by:

- (a) The appellant;
- (b) The NELTA tutor or leader or member of the Examination Board who made the assessment being appealed against;
- (c) The Chair of the Appeal Panel;
- (d) Members of the Appeal Panel;

Names of proposed witnesses must be notified to the School Direct administrator in writing at least five working days in advance of the date of the meeting.

### **Documentation**

The NELTA administrator shall send agenda papers including all the appeal documents, if relevant, to the appellant (together with a copy for their companion), members of the Appeal Panel, the NELTA Principal, those in attendance and witnesses.

### **The appeal panel in session**

12.1 The Chair of the Appeal Panel, in consultation with the NELTA Principal, has discretion to organise the meeting as they see fit in order to achieve the principal aims of a hearing:

- (a) To clarify evidence as necessary by questioning those who have submitted it. (There should be no need for repetition of statements already submitted in writing and any invited comment about these should be brief);
- (b) To enable the Appeal Panel to reach a just decision.

12.2 The proceedings and papers of the Appeal Panel will be strictly confidential to all the participants.

- (a) In exceptional circumstances, at the discretion of the Chair of the Appeal Panel, the appellant's provisional assessment grades may be made available to Appeal Panel members at the hearing.
- (b) Mechanical recording by tape, camera or other means, is prohibited.

(c) Legal representation is not normally allowed at a Panel Meeting

12.3 The quorum for a meeting of an Appeal Panel will be three members, including the Chair.

(a) In the absence of the nominated Chair an acting Chair will be elected by members of the Appeal Panel present.

(b) At the Chair's discretion, and with the appellant's agreement, the meeting may, in exceptional circumstances, be held in the absence of a quorum.

(c) It may not be held in the absence of a trustee or PCM from a partner school.

12.4 The appellant is entitled:

(a) To be present during the hearing of evidence unless the Chair of the Appeal Panel requests them to withdraw temporarily when matters confidential to the assessor or Examination Board are being discussed, or when the Panel wishes to have a private discussion. Their companion is similarly entitled;

(b) To comment on the evidence and to question witnesses, the assessor or members of the Examination Board. Their companion is similarly entitled;

(c) To be represented in their absence by a proxy at the discretion of the Chair.

12.5 The Appeal Panel may agree to proceed in the absence of the appellant provided that there is evidence that notification of the Appeal Panel meeting has been received by the appellant and warning has been given regarding failure to attend.

12.6 The NELTA tutor, leader and NELTA Principal, where an appeal concerns misconduct, is expected to be present throughout the hearing of evidence and is entitled to comment on the evidence and to question the appellant or witnesses.

12.7 Normally no witness (other than the appellant and assessor or members of the Examination Board who made the assessment) will be present while any other witness is giving evidence. The hearing may proceed in the absence of witnesses.

12.8 At any time during its meeting the Appeal Panel may decide to adjourn.

12.9 The Appeal Panel will consider its decision in private after the evidence has been heard and shall reach a decision by simple majority vote. If the votes cast are equal, the Chair of the Appeal Panel shall have a second or casting vote.

12.10 The appellant, their companion and the assessor or Examination Board member will normally be recalled for the Chair of the Appeal Panel to inform them of its decision, which will in due course also be given in writing to the appellant and all those previously notified.

### **Decision of the Appeal Panel**

13.1 If the Appeal Panel finds that injustice appears to have been caused to the appellant it will:

- (a) Require the assessor or Examination Board to review its decision;
- (b) Appoint a representative (normally the Chair) to attend the reconvened Examination Board together with the NELTA Principal.

13.2 If the Appeal Panel finds that an injustice has not been caused to the appellant:

- (a) This decision is final and no further appeal is possible against it.
- (b) The academic appeal procedures are now complete. Should the appellant wish to take the matter further, they must follow the guidance in 16.

13.3 The Appeal Panel has power to make any recommendations to the assessor or Examination Board, but the Appeal Panel may not dispute the academic judgement of the Assessment Board.

#### **Procedure following an appeal panel**

14.1 The Secretary, in consultation with the Chair, prepare a report of the Appeal Panel's meeting and findings. The findings of the Appeal Panel shall be reported to the appellant and to the assessor or members of the examination Board, whether or not it is asked to reconsider its decision.

14.2 Relevant documentary evidence (e.g. medical certificate) will be forwarded to any assessor or Examination Board reconvened to reconsider its decision.

14.3 The assessor or examination Board shall make special arrangements for reviewing an assessment decision if required to do so by an Appeal Panel, as soon as possible after the Appeal Panel meeting and at the latest during the next scheduled meeting.

- (a) The NELTA Principal shall notify the appellant of the decision of the reconvened Assessment Board as soon as possible.
- (b) This decision is final and no further appeal is possible against it.
- (c) The academic appeal procedures are now complete. Should the appellant wish to take the matter further, they must follow the guidance in 16.

14.4 If the Chair of the Appeal Panel and the NELTA Principal consider that the assessor or reconvened Examination Board has not taken due and proper account of the recommendations of the Appeal Panel they will prepare a brief account of the circumstances for report to the NELTA Strategic Board and Chief Executive Officer of the Beacon Multi-Academy Trust

#### **Powers of Academic Board**

15.1 After receiving a report as set out in 10.1 or 14.4 or in other, exceptional, circumstances, the NELTA Strategic Board may:

- (a) Annul the decision of an assessor or Examination Board;
- (b) Annul the whole assessment or any part of it;

(c) Establish a new Examination Board to carry out whatever actions are appropriate in order to make award recommendations;

(d) Take no action.

15.2 The decision of the NELTA Strategic Board is final and no further appeal is possible against it.

15.3 The academic appeal procedures are now complete. Should the appellant wish to take the matter further, they must follow the guidance in 16.

### **The Office of the Independent Adjudicator**

16.1 Should the appellant wish to take the matter further we suggest they the Office of the Independent Adjudicator.

The [Office of the Independent Adjudicator for Higher Education](#) ('OIA') is an independent body set up to review trainee complaints. It is free to trainees, and deal with individual complaints against Higher Education Institutions in England and Wales.

When all internal procedures are complete, trainees may request an independent review of their case by the OIA, if they remain dissatisfied with the College's final outcome. Provided the complaint is eligible under the rules of the OIA's complaints scheme, the OIA will look at whether the College applied its regulations properly and followed its procedures correctly. It also considers whether any decision made by the College was fair and reasonable in all the circumstances.

### **General**

17.1 The NELTA Principal may exceptionally modify any of the foregoing procedures to secure a just decision and shall inform the NELTA Strategic Board and BMAT trustees of such action in their annual report.

17.2 Any change of decision by the assessor or Examination Board due to the appeal process shall not be to the trainee's disadvantage.

17.3 The NELTA Principal has discretion not to consider an appeal from a trainee who has, without good reason, not complied with any given requirement made of trainees in general.

17.4 Trainees who knowingly submit false or forged evidence at any stage of the appeal process forfeit their right to consideration of the case and render themselves liable to disciplinary proceedings.

17.5 If an appellant formally withdraws their appeal at any stage in the procedure no further action will be taken.

17.6 The consideration of an appeal is an internal matter and the papers are confidential to NELTA/BMAT. The appellant may seek advice from any source. Should an appellant instruct solicitors at any stage of the appeal process the NELTA Principal may consult the BMAT solicitors. The BMAT

procedure does not normally allow legal representation at an Appeal Panel hearing. Papers shall be kept on file for two years following an Appeal Panel hearing. After that, apart from a copy of the notification to a trainee of the final decision, they may be destroyed.

17.7 The NELTA Principal reserves the right to dismiss an appeal because of breach of confidentiality by the appellant or where delay in reaching a decision is (in their opinion) caused by the appellant's failure to provide information upon request. In the latter case the appellant shall be warned in writing that the appeal shall be dismissed unless such information is received within ten working days of the date of the written warning.

17.8 Where gross irregularity is alleged to have occurred, the NELTA Principal may request special consideration by the NELTA Strategic Board.

17.9 The NELTA Principal shall report annually to the trustees of the Beacon Multi-Academy Trust on the number, distribution, grounds and outcome of appeals, and the Board of trustees shall undertake any necessary review of appeals work.

17.10 Formal interpretation of these regulations may only be made by the NELTA Principal. Such formal interpretation shall be submitted to the Board of trustees for approval.

17.11 The term 'Examination Board' is used in these regulations to refer to and covers all meetings where a decision is made concerning progression, assessment grade or final grade