

Guidance for Good Practice in Examination Appeals

The GMC has made clear that it would like to see more equity in the examinations appeals procedures in use between Colleges.

Colleges have previously provided information on their own appeals processes, which were collated by the Academy and discussed by the Academy Assessment Committee at its meeting in February 2012. Considerable discrepancies in practice were noted, and it was agreed that it would be helpful to draw up some generic principles of good practice in this area.

A summary of the Colleges' appeals processes can be accessed from the Academy for reference (previously circulated as Paper AAC 11.55). The proposed guidance is drafted around the key discrepancies identified in this document, as detailed for agreement in section B below. Other inconsistencies also exist, but it is not proposed that any discussion or in many cases action is necessary to address these, which are listed for reference in section A as follows:

A: Inconsistencies between College procedures; to be noted:

1. All but two of the Colleges responding stated that they allowed candidates to appeal, and provision for this is a mandatory requirement in the GMC's *Standards for Curricula and Assessment Systems* (paragraph 12.6(b)).

Recommendation:

All Colleges must have appeals processes in place.

2. There are assorted discrepancies in *process* between the Colleges (in terms of how appeals are handled, points 6 – 12 in paper 11.55).

Recommendation:

It is not proposed that the standardisation of processes between Colleges is necessary or advantageous. This is primarily an issue of administration, and should not have any bearing on the key principles or outcomes of appeals.

3. All the Colleges have clear time limits for the submission of appeals, and all but two of them enforce these (Point 21, paper 11.55).

Recommendation:

As an overarching principle, it is strongly recommended that wherever Colleges have judged a rule or regulation is necessary, it should be consistently and reliably applied thereafter. If this is not done it invites challenges on the grounds that the application of the regulations as a whole is arbitrary and capricious. If a rule is no longer appropriate, it should be removed from the regulations.

4. There are considerable variances in the use and amount of fees charged for appeals, from £0 to £2.6K. Furthermore, it is not clear if the purpose for these charges is consistent – whether they are intended to cover a college’s administrative costs in handling the appeal, or deter frivolous or vexatious cases from being submitted at all.

Recommendation:

As per point 2 above, the imposition of a charge for an appeal should not have any bearing on the fair and balanced consideration of that appeal. The only standardisation therefore proposed is that provision should exist to normally refund any appeal fee in cases where a candidate’s appeal has been upheld in full, so they are not financially penalised for raising a legitimate concern.

5. Five of the Colleges allow candidates to challenge the outcome of appeals (point 26 in paper 11.55).

Recommendation:

In part this may simply be a reflection of the differing appeals processes, and further there is no evidence that this ‘appeal against an appeal’ stage is a key principle of good practice. Colleges are however advised to ensure they have a mechanism in place so that clear procedural defects (etc) in the consideration of appeals can be remedied at a later stage, and the candidate not unfairly disadvantaged.

B: Inconsistencies between College procedures; recommendations for good practice:

6. There is clear inconsistency between Colleges in the consideration given to extenuating circumstances. As shown in point 1 of paper 11.55, half of the responding Colleges allow appeals to be submitted on these grounds (candidate illness etc), the others do not.

Recommendation:

That Colleges should ensure they make provision for dealing with candidates’ whose exam performance was adversely affected by extenuating circumstances outside their control, even if this mechanism sits outside of the appeals procedure. However, Colleges should also make clear in their Regulations that it is the responsibility of candidates to ensure they present themselves “fit and prepared” (or similar) for their examination.

As a minimum, Colleges should, where appropriate, be able to provide a refund of a candidate’s exam fees so they are not seen to profit from that candidate’s misfortune. It would not be unreasonable for this to be a proportion of the candidate’s fees, minus administration costs incurred in the exam. It should be made clear to candidates in advance that if they are not well enough to give a fair reflection of their skills and knowledge in the exam, *they should not attempt it*. If they do still attempt the exam, candidates should be aware that their illness alone will not be regarded as grounds for a refund etc. if they do not perform well.

7. There is a major inconsistency on a fundamental point – two Colleges allow appeals to be made that challenge clinical examiner judgement, the rest do not (point 3 of paper 11.55 refers).

Recommendation:

That appeals on academic grounds should not be allowed, as it potentially undermines the examiners’ role.

The GMC’s *Standards for Curricula and Assessment Systems* makes clear that:

10.2 Assessors or examiners must demonstrate their ability to undertake the role.

10.3 Assessors/examiners should only assess in areas where they have competence.

10.4 The relevant professional experience of assessors should be greater than that of candidates being assessed.

Colleges should therefore prioritise taking steps to ensure they meet these standards, rather than facilitating candidates to challenge it.

8. The other significant area of inconsistency is regarding the changing of successful appellant's marks and results (points 13 and 14 in paper 11.55). Approximately half the Colleges do this, and the others do not. This is arguably the most important discrepancy from a candidate's point of view and it is very hard to justify the anomaly that one college maintains that it can never change results (on the grounds that this will somehow undermine the validity of the assessment) while another declares it is satisfied that it is right and proper to do just that.

Recommendation:

Within carefully specified (and documented) limits, Colleges should ensure they have the power to amend a candidate's results. This provision could then be invoked in cases where the examining board is satisfied that if a candidate had been able to complete the exam in the normal way, they would have passed it.

It is proposed that such provision should only be applicable to 'borderline' candidates (e.g. those within the SEM of passing (if this is sufficiently statistically robust) or other similar measure), and those who failed by a more significant margin not be eligible for such consideration *no matter how severe their grounds for appeal are.*

C: Other Recommendations for Good Practice

9. **Recommendation:**

To ensure, and to be seen to ensure, fair and equitable consideration of candidates' appeals, it is strongly recommended that Colleges administer them anonymously.

This is particularly important for any persons making a decision on the appellant's case, and helps defend against accusations of prejudice or bias in such cases.

10. **Recommendation:**

To ensure, and to be seen to ensure, balanced and independent input into the consideration of candidates' appeals, it is strongly recommended that Colleges have a Lay Representative serving on any decision-making panel.

This is in line with misconduct and Fitness to Practice hearing panel best practice.