

Pre-Appeal Enquiries and Appeals Policy

1. General

- 1.1 We (Swim England Qualifications) are required by our Regulators, Ofqual and Qualification Wales (Regulators) to ensure that learners can appeal against certain decisions made by us and/or our Approved Training Centres (ATCs).
- 1.2 This policy sets out what an ATC should do when submitting a pre-appeal enquiry or appeal to us and the timescales which will be followed.
- 1.3 We aim to ensure that all decisions are fair, consistent, based on valid judgements and that our policies and procedures are followed properly and fairly. However, we acknowledge that there may be occasions where an individual, learner and/or ATC may wish to appeal a decision made.
- 1.4 We always endeavour to resolve issues and ensure that pre-appeal enquiries are resolved before any full appeal is undertaken.
- 1.5 Below are examples of pre-appeal enquiries and appeals that can be made to us:
 - Assessment Decisions and / or Outcomes (including External Verification Decisions and External Moderation Decisions)
 - Centre Review Outcomes
 - Sanctions
 - Reasonable Adjustments or Special Consideration Decisions
 - Malpractice Investigation Outcomes and Decisions
 - Adjudication of Internal Assessments Decisions
- 1.6 Any other queries regarding any other decisions made by us will be dealt with via our Complaints Policy and/or Whistle-blowing Policy.
- 1.7 In order to undertake an effective pre-appeal enquiry and/or appeal confidentiality cannot be maintained.
- 1.8 We do not accept pre-appeal enquires or appeals directly from learners, unless their ATC is no longer operating and/or no longer an ATC approved by us.
- 1.9 If a learner wishes to appeal against a decision initially made by the ATC it must first go through the ATC's appeals procedure before the matter is pursued by us.
- 1.10 In some situations, for example a sanction that is applied to an ATC which also includes a sanction being applied to a specific individual, such as a Company Director or Educator, the individual may wish to pursue a pre-appeal enquiry and/or appeal for any status applied directly to them as well. For such instances, whereby this policy references 'ATC' this reference incorporates the ATC as a collective and/or specific individuals that are either connected to or are part of the ATC workforce.
- 1.11 With the exception of Section 3, wherever possible we will not charge a fee for pre-appeal enquiries, however depending on the extent of the pre-appeal enquiry there may be occasions whereby costs have to be passed on to the ATC. If this is the case, we will advise within the acknowledgement of the receipt of the pre-appeal enquiry. Fees for any pre-appeal enquiry or appeal undertaken by us are applied directly to the ATC. For enquiries relating to Section 3, an invoice will be

raised following acknowledgement of receipt of the pre-appeal enquiry. Where an overall original decision made by us is not upheld as a result of a pre-appeal enquiry, appeal or panel investigation, fees will not be charged to the ATC. For our current fees, please refer to our Fees Policy (available on our website and via the ATC Secure Site, The Box).

- 1.12 For further advice on any matters concerning this policy, the ATC should contact us on qualityassurance@swimenglandqualifications.com

2. ATC Requirements

- 2.1 Ensure that all their workforce involved in the management, assessment and quality assurance of our qualifications and any learners undertaking one are fully aware of this policy.
- 2.2 We require all ATCs to have an appeals policy and procedure to enable expressions of dissatisfaction about results or any decisions affecting the outcomes of learner assessments.
- 2.3 Within this policy and procedure, the ATC should:
- Identify the individual and their contact details with whom the learner and / or workforce individual (if appropriate) should lodge an initial pre-appeal enquiry or appeal with
 - State what the next steps should be if unresolved
 - Include procedures for a referral if the learner is still unhappy with the outcome
 - Stipulate clear timelines for dealing with each step and the retention of evidence
 - Confirm that a learner may nominate an appropriate representative to act on their behalf only if they are unable to represent themselves, for example by reason of disability, on medical grounds, or because they are under the age of 18. Learners wishing to nominate a representative should do so at the beginning of the process with the ATC, giving a clear reason why they cannot represent themselves
 - If an ATC appeals on behalf of a learner/s they must ensure that they have obtained the written permission of the learner/s

3. Adjudication of ATC Decisions

- 3.1 Whereby a learner does not agree with the outcome of an appeal made to an ATC we may act as an independent adjudicator. This will only apply and be undertaken where a learner has completed an appeal with an ATC against an internal assessment, reasonable adjustment or special considerations decision which has not been able to be resolved by the ATC.
- 3.2 All requests must be made in writing within 20 working days from the date the ATC closed their appeal, providing evidence and results of that appeals procedure.
- 3.3 We will acknowledge receipt of the pre-appeal enquiry within 5 working days of receipt of the pre-appeal enquiry and at this point an invoice to the ATC will be requested (see Section 1, point 1.11 above).
- 3.4 Where we agree to review a learner's internal assessment evidence, the evidence will usually be included within other evidence to be presented for

external verification. Where this is not possible or appropriate the assessment evidence will be reviewed separately. Outcomes of this review will be confirmed within an External Verification Report. The report will confirm if the original ATC decision is upheld or not by us.

- 3.5 If the ATC and/or learner remain dissatisfied with the outcome within the report, the ATC and/or learner may request a formal appeal.

4. Reasonable Adjustments or Special Consideration Decisions Made by Us

- 4.1 Where an ATC is notified of a Reasonable Adjustments or Special Consideration decision made by us whereby the ATC and/or learner disagrees with the decision made by us, the ATC may request a pre-appeal enquiry.
- 4.2 All requests must be made in writing within 20 working days from the day after the decision was issued by us.
- 4.3 Following a review of the evidence a report will be submitted to the ATC. The report will confirm if the original decision is to be upheld or not.
- 4.4 If the ATC and/or Learner remain dissatisfied with the outcome the ATC may request a formal appeal.

5. External Moderation Decisions

- 5.1 Where an ATC is notified via an External Moderation Report that the learner has not met the standard and the ATC and/or Learner disagrees with the decision made by us, the ATC may request a pre-appeal enquiry.
- 5.2 The pre-appeal enquiry will focus only on the areas that the learner did not meet the standard.
- 5.3 All requests must be made in writing within 20 working days from the day after the External Moderation Report was issued by us.
- 5.4 The assessment evidence presented must include the original work of the learner and the evidence and outcome of the initial External Moderation decision.
- 5.5 Following a review of the evidence a report will be submitted to the ATC. The report will confirm if the original assessment decision is to be upheld or not.
- 5.6 If the ATC and/or Learner remains dissatisfied with the outcome within the report the ATC may request a formal appeal.

6. External Verification Decisions

- 6.1 Where an ATC is notified via an External Quality Assurance Report that its assessment decisions have not met the standard and the ATC and/or learner disagrees with the decision made by us, the ATC may request a pre-appeal enquiry.
- 6.2 All requests must be made in writing within 20 working days from the day after the report was issued by us and before the ATC claims any certificates that relate to the External Quality Assurance activity.

- 6.3 The assessment evidence presented must include the original work of the learner and the evidence and outcome of the initial assessment and internal verification activity and decisions.
- 6.4 In cases such as External Verification decisions, the adjudicator may instruct that a further reassessment should take place if they consider that the assessment procedures were not adequately followed or that a further External Verification activity is undertaken if they consider those procedures were not adequately followed.
- 6.5 The evidence may be reviewed remotely or during a face-to-face (online or in person) visit with the ATC. Following a review of the evidence a report will be submitted to the ATC. The report will confirm if the original assessment decision is to be upheld or not.
- 6.6 If the ATC and/or learner remains dissatisfied with the outcome within the report the ATC may request a formal appeal.

7. Centre Review Outcomes

- 7.1 Where an ATC is notified via a Centre Review Report of the outcome of a Centre Review and the ATC disagrees with the decision made by us, the ATC may request a pre-appeal enquiry.
- 7.2 All requests must be made in writing within 20 working days from the day after the Centre Review Report was issued by us.
- 7.3 The evidence may be reviewed remotely or during a face-to-face (online or in person) visit with the ATC. Following a review of the evidence an updated Centre Review Report will be submitted to the ATC along with confirmation as to whether the original decision is to be upheld or not.
- 7.4 If the ATC remains dissatisfied with the outcome within the report the ATC may request a formal appeal.

8. Malpractice Investigation and/or Sanctions Outcomes and Decisions

- 8.1 Where an ATC is notified of a Malpractice Investigation and/or Sanction outcome and decision and the ATC disagrees with the decision made by us, the ATC may request a pre-appeal enquiry.
- 8.2 All requests must be made in writing within 20 working days from the day after the outcome and decision was issued by us.
- 8.3 The evidence may be reviewed remotely or during a face-to-face (online or in person) visit with the ATC. Following a review of the evidence a report will be submitted to the ATC. The report will confirm if the original decision is to be upheld or not.
- 8.4 If the ATC remains dissatisfied with the outcome the ATC may request a formal appeal.

9. Stage 1 Pre-Appeal Enquiry

- 9.1 The pre-appeal enquiry stage is one that precedes an appeal and is a stage that endeavours to resolve disputes before they reach the appeals stage.
- 9.2 ATC's have 20 working days from the day after the outcome and decision was issued by us (or 20 working days from the day after the date an appeal was closed by the ATC, see Section 3) in which to make a pre-appeal enquiry.
- 9.3 Hence ATCs must take this into consideration along with our Retention of Records Policy (available via the ATC Secure Site, The Box).
- 9.4 The ATC must provide the following details:
- ATC Name
 - ATC Centre Number
 - Individuals Name (if applicable – see point 1.10 above)
 - Learner/s Name and Registration Number/s (if applicable)
 - Title/QAN of the qualification (if applicable)
 - What decision the pre-appeal enquiry relates to
 - Details of any decision dates known
 - Evidence and results of the ATCs own appeals procedure (if applicable)
 - ATC representative contact details (email/telephone number) for the individual making the pre-appeal enquiry on behalf of the ATC and/or learner (this would usually be the Key Centre Contact, unless there is a Conflict of Interest that needs to be taken into account)
 - As much detail and/or evidence as possible about the decision and what aspects of the decision are being challenged
- 9.5 All pre-appeal enquiries should be sent to qualityassurance@swimenglandqualifications.com
- 9.6 We will acknowledge receipt of the pre-appeal enquiry within 5 working days of receipt of the pre-appeal enquiry. We will only highlight in this acknowledgement any anticipated or actual fees if they may be applicable taking into account the specific pre-appeal enquiry (see Section 1, point 1.11 above).
- 9.7 We will advise on next steps, including advising if there are grounds for the pre-appeal enquiry to commence, see also section 1.6. Repeated requests with no grounds, no new evidence and/or abusive correspondence from any individual will be considered as vexatious correspondence and as such could negatively impact on our ability to undertake and provide a transparent procedure. We will however keep those requesting a pre-appeal enquiry informed throughout any investigation. However, we must be allowed sufficient time for us to carry out a thorough investigation.
- 9.8 We will appoint a relevant competent individual to act as an adjudicator who has not had any involvement with the case so far.
- 9.9 The adjudicator will review the pre-appeal enquiry details, the procedures that were followed to reach the decision, and any other supporting evidence which may include contacting other parties who were involved in the decision making.

- 9.10 In cases such as External Quality Assurance decisions, the adjudicator may instruct that a further reassessment should take place if they consider that the assessment procedures were not adequately followed or that a further external quality assurance activity is undertaken if they consider those procedures were not adequately followed.
- 9.11 We will notify the ATC of the outcome within 20 working days from the day after the pre-appeal enquiry was received by us. Should it not be possible to provide an outcome within this time we will inform the ATC and wherever possible provide an alternative anticipated outcome date.
- 9.12 If the ATC and/or learner remain dissatisfied with the outcome of the pre-appeal enquiry the ATC may request a formal appeal.

10. Stage 2 Formal Appeal

- 10.1 If the ATC and/or learner remain dissatisfied after receiving the outcome of a pre-appeal enquiry, they can pursue a formal appeal against the decision.
- 10.2 All appeals must be made in writing and within 20 working days from the day after the pre-appeal enquiry outcome was issued by us. All appeals should be emailed to qualityassurance@swimenglandqualifications.com
- 10.3 The ATC must provide the following details:
- ATC Name
 - ATC Centre Number
 - Individuals Name (if applicable – see point 1.10 above)
 - Learner/s Name and Registration Number/s (if applicable)
 - Title/QAN of the qualification (if applicable)
 - The pre-appeal enquiry reference number (provided by us)
 - ATC representative contact details (email / telephone number) for the individual making the pre-appeal enquiry on behalf of the ATC and/or learner (this would usually be the Key Centre Contact, unless there is a Conflict of Interest that needs to be taken into account)
 - As much detail as possible about what aspects of the pre-appeal enquiry outcome are being challenged
- 10.4 If an ATC is appealing on behalf of a learner/s they must ensure that they have obtained the written permission of the learner/s concerned as results can remain the same, can go down as well as up following a full investigation.
- 10.5 We will acknowledge receipt of the appeal within 5 working days of receipt of the appeal advising of next steps, including advising the ATC if there are grounds for the appeal to commence, see also section 1.6. Repeated requests with no grounds, no new evidence and/or abusive correspondence from any individual will be considered as vexatious correspondence and as such could negatively impact on our ability to undertake and provide a transparent procedure. We will however keep those requesting the appeal informed throughout any investigation.

However, we must be allowed sufficient time for us to carry out a thorough investigation.

- 10.6 We will establish who will undertake the appeal, which will consist of one or more individuals, who are competent to undertake the appeal and have no personal interest in the outcome of the appeal. The final decision of an appeal will involve at least one decision maker who is not an employee of our awarding organisation/the National Governing Body (Swim England) or an external consultant working on behalf of the awarding organisation.
- 10.7 We will inform the ATC of the result of the appeal within 20 working days from the day after the appeal was received by us. Should it not be possible to provide an outcome within this time we will inform the ATC and wherever possible provide an alternative anticipated outcome date.
- 10.8 Following the issuing of the outcome of the appeal, should the overall outcome not be changed and as such the previous overall decision upheld, an invoice for the cost of the appeal will be issued to the ATC.
- 10.9 If the ATC and/or learner remain dissatisfied with the outcome of the appeal the ATC may request a panel investigation.

11. Stage 3 Panel Investigation

- 11.1 If the ATC and/or learner remains dissatisfied after receiving the outcome of the formal appeal, they can request a panel investigation.
- 11.2 All panel investigation requests must be made in writing and within 10 working days from the day after the formal appeal outcome was issued by us. All panel investigation requests should be emailed to qualityassurance@swimenglandqualifications.com
- 11.3 The ATC must provide the following details:
 - ATC Name
 - ATC Centre Number
 - Individuals Name (if applicable – see point 1.10 above)
 - Learner/s Name and Registration Number/s (if applicable)
 - Title/QAN of the qualification (if applicable)
 - The formal appeal reference number (provided by us)
 - ATC representative contact details (email / telephone number) for the individual making the request on behalf of the ATC and/or learner (this would usually be the Key Centre Contact, unless there is a Conflict of Interest that needs to be taken into account)
 - As much detail as possible about what aspects of the formal appeal are being challenged
- 11.4 We will acknowledge the panel investigation request within 5 working days of receipt of the panel investigation request.

- 11.5 We will establish an investigation panel, consisting of two or more individuals, who will be competent to act on the panel and have no personal interest in the outcome of the investigation. The final decision from an investigation panel will involve at least one decision maker who is not employee of our awarding organisation/the National Governing Body (Swim England) or an external consultant working on behalf of the awarding organisation.
- 11.6 The panel investigation will be arranged to take place at our Head Office. Where this is not practicable, an online investigation will be arranged. The panel investigation will consist of representation from the ATC and/or Learner and will be arranged wherever possible at a convenient time for all involved.
- 11.7 Following the issuing of the outcome of the panel investigation, should the overall outcome not be changed and as such the previous overall decision upheld, an invoice for the cost of the panel investigation will be issued to the ATC.
- 11.8 The decision from the panel will be final.

12. Referral to Regulators

- 12.1 If an ATC and/or learner is not satisfied with the panel's decision they may contact Ofqual (England) or Qualifications Wales (Wales) directly to raise a complaint regarding our appeals procedure. Regulators will always want confirmation that all other internal and external procedures have been formally exhausted prior to their involvement, and will seek evidence to confirm this is the case. Upon receipt they may or may not agree to hear the complaint, but will provide reasons for their decision.

13. Outcomes of Enquiries and Appeals

- 13.1 With any pre-appeal enquiry and/or appeal the resulting decision and outcome can be one whereby:
- The initial decision is overturned and the pre-appeal enquiry and/or appeal is upheld
 - The initial decision is in part overturned and the pre-appeal enquiry and/or appeal is in part upheld
 - The initial decision is supported and the pre-appeal enquiry and/or appeal is not upheld
- 13.2 ATCs, individuals and/or learners must be aware that the outcome from a pre-appeal enquiry and/or appeal can also result in initial decisions increasing as much as decreasing. For example, an appeal against an External Moderation decision would usually result in the learner's full portfolio being re-moderated and as such the outcome and decision could include that further areas of the standard have been identified as not being met. Equally for example, a pre-appeal enquiry and/or appeal against a sanction could result in the sanction level being increased as much as potentially decreased.

- 13.3 Where a pre-appeal enquiry and/or appeal has the potential to have an adverse effect we will inform the Regulators as per their requirements and in line with our Communication with the Regulators Policy.
- 13.4 Where a pre-appeal enquiry or an appeal is upheld and the outcome is seen to have a wider impact on other ATCs and/or learners, we will ensure that:
- Any other learner who may have been affected is identified
 - The error is corrected, or if it cannot be corrected for any reason, the effect of such an outcome is mitigated
 - Applicable policies and/or procedures are reviewed to prevent any future reoccurrence
 - Additional advice, direction and/or training of staff and/or External Consultants may be required to be undertaken to prevent any future reoccurrence

14. Quality Assurance

- 14.1 This policy supports regulatory conditions; C2; H2; I1; I2.
- 14.2 This policy is reviewed biennially to ensure it continues to meet our needs and those of our regulators or earlier if necessary as a result of feedback, monitoring activities, requirements from our regulators or changes in legislation.